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SLAVERY AFTER ROME

500–1100



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MEDIEVAL EUROPEAN HISTORY

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Slavery After Rome, 500–1100

ALICE RIO

OXFORD
UNIVERSITY PRESS

OXFORD
UNIVERSITY PRESS

Great Clarendon Street, Oxford, OX2 6DP,
United Kingdom

Oxford University Press is a department of the University of Oxford.
It furthers the University's objective of excellence in research, scholarship,
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First Edition published in 2017

Impression: 1

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Published in the United States of America by Oxford University Press
198 Madison Avenue, New York, NY 10016, United States of America

British Library Cataloguing in Publication Data
Data available

Library of Congress Control Number: 2016950219

ISBN 978–0–19–870405–8

Printed in Great Britain by
Clays Ltd, St Ives plc

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Acknowledgements

I have a lot of people to thank here for both their time and their thoughts. Jinty Nelson, Wendy Davies, and Chris Wickham read and commented on the entire book in draft form, and gave me very useful suggestions and criticism. Very much at the top of the list is also Alice Taylor, not just for being an all-round excellent friend and colleague, but also for many extended and coffee-fuelled conversations about the contents of this book, which allowed me to think through much of what eventually made it into the final text (as well as to discard the things that did not, and which I trust her to keep to herself). Susan Reynolds read an early version of the introduction; John Gillingham, Eduardo Manzano Moreno, and Marek Jankowiak read Chapter 1; Paul Hyams Chapter 3. I benefited from discussing this project at a very early stage with Julia Smith, when it was still intended as a short book for a different series. Many other people provided me with enlightening conversation and sent me examples I didn't know about; it seems fair to highlight among them Simon Corcoran, André Marques, and especially the late and much missed Duncan Probert, for kindly sending me the text of his in-progress edition of Anglo-Saxon manumissions.

I find it very difficult to imagine how I would ever have been able to finish this book without the generous help of the Leverhulme Trust, which allowed me to obtain research leave in the academic years 2011–13 through the award of a Philip Leverhulme Prize. I am also deeply grateful to Becky Littlechilds for her help in double-checking my footnotes and compiling the index, and to King's College London's Parental Leave Fund for allowing me to hire her.

The most personal debts traditionally come at the end, though they are the most important: I am more grateful than I can say above all to Shamus Maxwell, who always helps me to think more and better about things, whatever the subject; to Axel, who gave me the best possible incentive to finish writing this; and to my parents, for continuing to read everything I write.

I should also add as a disclaimer that there is in places, especially in Chapter 2, strong overlap between this book and some articles and chapters I have published elsewhere over the past ten years (even to the point of reusing the same wording, when I saw no reason not to): 'Freedom and unfreedom in early medieval Francia: the evidence of the legal formularies', *Past & Present* 193 (2006), 7–40; 'High and low: ties of dependence in the Frankish kingdoms', *Transactions of the Royal Historical Society* ser. 6, vol. 18 (2008), 43–68; 'Self-sale and voluntary entry into unfreedom, 300–1100', *Journal of Social History* 45:3 (2012), 661–85; 'Penal enslavement in the early middle ages', in A. Lichtenstein and C. de Vito eds, *Global Convict Labour* (Leiden, 2015), 79–107; "'Half-free" categories in the early middle ages: fine status distinctions before professional lawyers', in P. Dresch and J. Scheele eds, *Legalism: Rules and Categories* (Oxford, 2015); and 'Slavery in the Carolingian empire', in D. Richardson, S. Engerman, D. Eltis, and C. Perry eds, *The Cambridge World History of Slavery* vol. 2 (Cambridge, forthcoming).

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Abbreviations

ARTEM	<i>Chartes originales antérieures à 1121 conservées en France</i> , Cédric Giraud, Jean-Baptiste Renault et Benoît-Michel Tock eds, electronic edition (Telma), http://www.cn-telma.fr/originaux/index/ (Orléans, 2010)
<i>Bodmin</i>	M. Förster ed., 'Die Freilassungsurkunden des Bodmin-Evangeliars', in N. Bøgholm, A. Brusendorff and C. Bodelsen eds, <i>A Grammatical Miscellany offered to Otto Jespersen on his Seventieth Birthday</i> (Copenhagen and London, 1930), 77–99
<i>Capitularia</i> I, II	<i>Capitularia regum Francorum</i> , eds A. Boretius and V. Krause, MGH Leges II, 2 vols (Hanover, 1883–97)
CDL	<i>Codice diplomatico Longobardo</i> vol. I–II, ed. L. Schiaparelli (Rome, 1929–33); vol. IV, 2, ed. H. Zielinski (Rome, 2003); vol. V, ed. H. Zielinski (Rome, 1986)
<i>Celanova</i> I, II	<i>O Tombo de Celanova</i> , ed. J.M. Andrade, 2 vols (Santiago de Compostela, 1995)
<i>ChLA</i>	<i>Chartae Latinae Antiquiores</i> , 108 vols (Dietikon/Zurich, 1954–)
<i>Chronicon Casauriense</i>	<i>Liber instrumentorum seu chronicorum Monasterii Casauriensis</i> (Aquila, 1982) [facsimile of Paris, BnF lat. 5411]
<i>Cluny</i> I–VI	<i>Recueil des chartes de l'abbaye de Cluny</i> , eds A. Bernard and A. Bruel, 6 vols (Paris, 1876–1903)
<i>Conciles mérovingiens</i> I, II	<i>Les canons des conciles mérovingiens, VIe–VIIe siècles</i> , ed. C. de Clercq, transl. J. Gaudemet and B. Basdevant-Gaudemet, Sources chrétiennes 353–4, 2 vols (Paris, 1989)
<i>D.Arnolf</i>	<i>Die Urkunden Arnolfs</i> , ed. P. Kehr, MGH Diplomata (Berlin, 1940)
<i>D.Heinrich I</i>	<i>Die Urkunden Konrad I. Heinrich I. und Otto I.</i> , ed. T. Sickel, MGH Diplomata (Hanover, 1879–84), pp. 37–79
<i>D.Kar.</i>	<i>Diplomata Karolinorum</i> vol. 1, ed. E. Mühlbacher, MGH Diplomata (Hanover, 1906)
<i>D.Konrad I</i>	<i>Die Urkunden Konrad I. Heinrich I. und Otto I.</i> , ed. T. Sickel, MGH Diplomata (Hanover, 1879–84), pp. 1–36
<i>D.Lothar I</i>	<i>Die Urkunden Lothars I. und Lothars II.</i> , ed. T. Schieffer, MGH Diplomata (Berlin/Zurich, 1966), pp. 1–365
<i>D.LD</i>	<i>Die Urkunden Ludwigs des Deutschen, Karlmanns und Ludwigs des Jüngeren</i> , ed. P. Kehr, MGH Diplomata (Berlin, 1934)
<i>D.Ludwig II</i>	<i>Die Urkunden Ludwigs II.</i> , ed. K. Wanner, MGH Diplomata (Munich, 1994)
<i>D.Otto I</i>	<i>Die Urkunden Konrad I. Heinrich I. und Otto I.</i> , ed. T. Sickel, MGH Diplomata (Hanover, 1879–1884), pp. 80–638
<i>Exeter Book</i>	R.W. Chambers, M. Förster and R. Flower, <i>The Exeter Book of Old English Poetry</i> (London, 1933)
<i>Freising</i> I, II	<i>Die Traditionen des Hochstifts Freising</i> , ed. T. Bitterauf, 2 vols (Munich, 1905–9)

- Fulda* *Codex diplomaticus Fuldensis*, ed. E.F.J. Dronke (Cassel, 1850, reprint 1962)
- Hersfeld* *Urkundenbuch der Reichsabtei Hersfeld*, ed. H. Weirich (Marburg, 1936)
- Leofric Missal* F.E. Warren ed., *The Leofric Missal: As used in the Cathedral of Exeter during the Episcopate of its First Bishop, AD 1050–1072* (Oxford, 1883)
- León I, III* *Colección documental de la Catedral de León*, vol. 1 ed. E. Sáez; vol. 3, ed. José Manuel Ruiz Asencio (León, 1987)
- Liber iudiciorum* *Leges Visigothicae*, ed. K. Zeumer, MGH *Leges* I, 1 (Hanover, 1902)
- Lorsch I, II, III* *Codex Laureshamensis*, ed. K. Glöckner, 3 vols (Darmstadt, 1929–36; reprint 1963)
- MGH *Monumenta Germaniae Historica*
- MGH *Concilia* I, II, III I: *Concilia aevi Merovingici*, ed. Friedrich Maassen, MGH *Leges* III (Hanover, 1893); II, 1–2: *Concilia aevi Karolini*, ed. A. Werminghoff (Hannover/Leipzig, 1906); III: *Die Konzilien der karolingischen Teilreiche 843–859*, ed. W. Hartmann (Hanover, 1984)
- Mondsee* *Das Älteste Traditionsbuch des Klosters Mondsee*, eds G. Rath and E. Reiter (Linz, 1989)
- Nouaillé* *Chartes de l'abbaye de Nouaillé de 678 à 1200*, ed. P. de Monsabert (Poitiers, 1936)
- Otero de las Dueñas* *Colección documental de Otero de las Dueñas*, eds José Antonio Fernández Flórez and Marta Herrero de la Fuente, vol. 1 (León, 1999)
- Passau* *Die Traditionen des Hochstifts Passau*, ed. M. Heuwieser (Munich, 1930)
- PL *Patrologia Latina*, ed. J.-P. Migne, 217 vols (Paris, 1841–55)
- Polyptych of St-Germain* *Das Polyptychon von Saint-Germain-des-Prés*, ed. D. Hägermann (Cologne, 1993)
- Polyptych of Wadaldus* *Descriptio mancipiorum ecclesie Massiliensis*, eds L. Delisle and A. Marion, in B. Guérard ed., *Cartulaire de l'Abbaye de Saint-Victor de Marseille*, vol. 2 [= Collection des cartulaires de France 9] (Paris, 1857), pp. 633–54
- Polyptyque St-Rémi* *Le polyptyque et les listes de cens de l'abbaye de Saint-Rémi de Reims (IXe-XIe siècles)*, ed. J.-P. Devroey (Reims, 1984)
- Regensburg* *Die Traditionen des Hochstifts Regensburg und des Klosters S. Emmeram*, ed. J. Widemann (Munich, 1943, reprint 1969)
- Sahagún* *Colección diplomática del Monasterio de Sahagún (siglos IX y X)*, ed. J.M. Mínguez Fernández (León, 1976)
- Salzburg* *Salzburger Urkundenbuch*, vol. 1: *Traditionskodizes*, ed. W. Hauthaler (Salzburg, 1910, reprint 1987)
- Samos* *El Tumbo de San Julián de Samos, siglos VIII-XII: estudio introductorio, edición diplomática, apéndices y índices*, ed. M. Lucas Álvarez (Burgos, 1986)
- Sant Cugat* *Cartulario de "Sant Cugat" del Vallés*, J. Rius Serra ed., vol. 1 (Barcelona, 1945)
- Sawyer* *The 'Electronic Sawyer'*, <http://www.esawyer.org.uk>

- Sobrado* *Tumbos del Monasterio de Sobrado de los Monjes*, ed. P. Loscertales de G. de Valdeavellano, 2 vols (Madrid, 1976)
- St-Etienne de Dijon* J. Courtois, *Les origines de l'hypothèque en Bourgogne et chartes de l'abbaye de Saint-Etienne des VIIIe, IXe, Xe et XIe siècles* (Dijon, 1907)
- St-Gall I* *Chartularium Sangallense*, vol. 1 (700–840), ed. P. Erhart with K. Heidecker and B. Zeller (Ostfildern, 2013)
- St-Gall II* *Urkundenbuch der Abtei Sanct Gallen*, vol. 2: 840–920, ed. H. Wartmann (Zürich, 1866)
- St-Maixent* *Chartes et documents pour servir à l'histoire de l'abbaye de Saint-Maixent*, ed. A. Richard, 2 vols (Poitiers, 1886–87)
- St-Peter's Ghent* *Chartes et Documents de l'Abbaye de Saint Pierre au Mont Blandin à Gand*, ed. A. van Lokeren, 2 vols (Ghent, 1868–71)
- Tegernsee* *Die Traditionen des Klosters Tegernsee, 1003–1242*, ed. P. Acht (Munich, 1952)
- Wissembourg* *Traditiones Wizenburgenses: Die Urkunden des Klosters Weissenburg, 661–864*, eds K. Glockner and A. Doll (Darmstadt, 1979)

Introduction

This book deals with the vexed question of the fate of slavery in the centuries following the fall of the Roman Empire. Historians of antiquity generally agree that the Roman model of slavery—entailing total subjection to a master, and practised on a scale significant enough to warrant the use of the label ‘slave society’—died out some time during late antiquity. Estimates vary from as early as the second century AD to no later than the fifth. It is nevertheless absolutely clear that unfree people and unfree status continued being used throughout Europe for centuries after the demise of a recognizably ‘Roman’ style of exploitation. What precisely it *meant* to be unfree, however, is even harder to tell for this period than for the Roman world.

Under Rome, we find practices of unfreedom which, while far from unified, at least corresponded to fairly regular sets of parameters and definitions. In the twelfth century, similarly clear parameters came to govern what had become two radically different versions of unfree status. One of these we know as serfdom, which specifically involved unfree rural tenants, who were placed under a much less all-encompassing style of domination by their lords. The other was the reviving chattel slavery of Southern Europe, by then in principle dealing exclusively in religious outsiders—Muslims, Slavs, Bulgars, and sometimes Orthodox Greeks. What happened in between these two eras of relatively tight definition is the real puzzle; this book aims to offer one possible answer to it.

The question of the transition from slavery to serfdom has commanded far more attention from historians than that from early to later medieval slavery, and over a much longer period of time.¹ That story used to be much simpler, back when it could still be told as a wholesale conversion from Roman slavery into medieval serfdom: the debate then only needed to focus on when the change happened, and how long it took to happen. As with all debates, it yielded drastically different positions, ranging from seeing early medieval unfree people as already living under conditions identical to those of central medieval serfs, all the way to seeing them as still living under the same strictures as Roman slaves.² It is now rare to see any

¹ The only real attempt to link up early medieval with late medieval slavery was made by Susan Mosher Stuard in a 1995 article (‘Ancillary evidence’), arguing for continuity—though this failed to find any support among early medievalists. I will touch on this subject in Chapters 1 and 4.

² These different views were most classically expressed by, respectively, Marc Bloch, ‘Comment et pourquoi’, and Bonnassie, ‘Survie et extinction’. For whatever reason, the boldest and widest-ranging twentieth-century theories on the end of ancient slavery have come out of French historiography—perhaps because of a greater willingness on the part of French historians to extrapolate to the rest of

specialist supporting either of these extremes with much conviction. Practices of unfreedom in this period were clearly extremely diverse, and covered people who could be classified as slaves under any definition of the word, *as well as* people who look a great deal like later medieval serfs.³ This acknowledgement of diversity not only makes better sense of surviving sources, it is also inherently much more plausible—unsurprisingly so, since betting against diversity in the early middle ages is never a good idea. But while convincing at the level of description, it does leave us with a clear explanatory deficit: although earlier metanarratives have been dismissed, no alternative understanding of the process of change has been proposed. The aim of this book is to offer a new interpretation which will take due account of diversity; identify its underlying logic (when, where, and why particular practices of unfreedom predominated); and explain how all this might fit into a less deterministic, but nevertheless coherent, overall trajectory of change.

To a greater or lesser extent, all early medieval kingdoms lived under the shadow of Rome, which handed down to them its language, its religion, its law, and much of its thought-world. Beyond this obvious intellectual debt, the majority of early medieval European kingdoms grew in ex-Roman provinces, so that one also has to reckon with some degree of continuity in both social organization and personnel (the hereditary elites that survived the change in government and managed to retain their property). For all these reasons, it makes sense to approach the whole question of early medieval slavery in terms of deviation from Roman slavery as a point of origin, and that is where I will start. But it should be borne in mind that using Roman slavery as a model can also create its own sense of determinism, and result in a self-fulfilling narrative.⁴ Talking about ‘ancient’ slavery ‘surviving’ into the early middle ages frames its existence as a mere stay of execution: it takes slavery’s anachronism for granted, and makes it look like an interloper from an earlier age. But early medieval slavery lasted for many centuries: it did not simply either decline or stay the same. Instead, it was the object of multiple and sometimes eccentric innovations, which do not always tie in very neatly with central medieval serfdom either. Early medieval slavery was experimental and inventive in many different ways, and this makes it worth studying for its own sake, rather than simply as a way of getting us from A to B.

The aim of this book is to adopt a broad comparative perspective over a long chronological period. Inevitably—to come clean at the outset—I could not aspire to cover all the relevant evidence within it; it is intended as an analytical sketch rather than an exhaustive treatment. Naturally, not everyone will agree with my choices, and I will have missed out some pieces of evidence that an area specialist would consider too crucial to omit; but I necessarily had to be selective. I will focus most heavily on those Western European regions which had once formed part of

Europe models reached on the basis of French source material, while the historiographies belonging to other European countries tend to cling more to arguments of regional exceptionalism.

³ Davies, ‘On servile status’, pp. 245–6.

⁴ On the tendency for Roman slavery to skew comparative perspectives on slavery for other parts of the world, see Testart, *L’esclave, la dette et le pouvoir*, Annexe 2.

the Roman Empire (the Frankish kingdoms, Italy, Spain, and, in a more distant relationship with the Roman tradition, Anglo-Saxon England). Less consistently, I will also discuss Ireland (which had never been part of the Empire, and where reference to Roman culture therefore represented something rather different) and, at the other end of the scale in terms of direct descent from Rome, the Byzantine Empire—though neither region will feature systematically in its own right. I have placed more emphasis on what makes a region distinctive in comparison with the others, rather than giving a very full account of each one in its own right. I have also concentrated for each region on the process or moment of change I consider key for the particular theme of the chapter. The chronological coverage is therefore equally patchy (though that is also because the source material is not evenly distributed). The early middle ages are not a period with clean edges, and the chronological emphasis is slightly different for different themes of the book. I chose 1100 as the overall end point because it seems to me that the twelfth century marks a quite new departure in the uses and understanding of unfreedom, in most of the regions considered here: by then, new status words were starting to appear; practical forms of exploitation had everywhere shifted massively and definitively towards unfree tenancy; and the formal legal set-up was about to be overhauled through the work of a new breed of professional jurists.

STARTING-POINTS AND TRAJECTORIES

It is a ritual obligation at this point for discussions of early medieval slavery to offer a definition of what slavery is. I say this not because I intend to buck the trend (I *will* discuss definitions), but because it is symptomatic of the problems involved in treating this subject. The early middle ages are the period in European history for which it is hardest to picture what being a slave was like, even at the level of the most broad-brush stereotype. Unlike in the modern era, slave status was not linked to race; unlike in ancient Greece and Rome, it was not particularly associated with cultural aliens; unlike Islamic or late medieval Mediterranean slavery, it was not based on religious difference; nor can it really be equated with class, type of work, or economic function. It is very hard to see it as being systematically rooted in any other obvious forms of social discrimination, and this makes the attribution of unfree status in the early middle ages seem even more arbitrary than in most other contexts.

By contrast, studies on ancient slavery rarely start by defining what a slave is; they tend to define instead what a ‘slave society’ is.⁵ This places the focus much less on what slavery is in itself, and much more on how central a place it can be said to have occupied in the political, economic, and cultural life of a society taken as a whole. Whatever debate and disagreement may exist on particular aspects of it, specialists in the field more or less agree that there was something exceptional

⁵ E.g. Garnsey, *Ideas of Slavery*, pp. 1–2; Harper, *Slavery in the Late Roman World*, pp. 3–4.

about Roman slavery, at least among premodern slave systems.⁶ The Roman Empire is one of the very few societies in history that are generally agreed to deserve the 'slave society' label, because of the quantitative importance of slavery, its impact on wider economic structures, and its conceptual centrality both politically and culturally, as the polar opposite of free citizenship.

It is possible to argue, as Kyle Harper recently has, that many of the conditions that had made the early Roman Empire a slave society still applied by late antiquity, at least in an urban context.⁷ By the early middle ages, by contrast, it becomes extremely difficult to make the same case for continuity. Only a small minority of historians has ever tried to apply the 'slave society' label to an early medieval Western society.⁸ This, however, has not stopped many medievalists from arguing over the end of 'ancient' slavery as something requiring an explanation from within their own field, rather than belonging in an earlier time period. This is rooted in the notion that, even if the Roman slave system taken as a holistic entity did not survive the fifth century, some fundamental aspects of it might still be said to have lived on and continued to affect later societies—however different these later societies might have been. This more free-floating, less context-bound approach to 'ancient' slavery encourages a more fragmented approach, and different historians privilege different aspects of the ancient model in citing evidence for its survival or otherwise.

Economic historians now often tend to lose interest in slavery quite early on the chronological spectrum. This is mirrored by a loss of interest in economic history by historians of slavery, who tend to play down its significance to their subject by arguing that slavery was no longer a very important aspect of the economy, nor economics a very important aspect of slavery.⁹ This is a striking turnaround, since economic arguments had been crucial to so much early work on the topic. Key works of nineteenth-century historiography, indeed, saw the transition from slavery to serfdom essentially in terms of a change in economic organization, and placed the major break in the late Roman Empire, with the replacement of plantation-style great estates or *latifundia*, worked through slave labour, with smaller exploitations farmed by tied tenants (*coloni*). These latter were seen as heralding a new form of labour relations, and as the origin point for the development

⁶ Harper, *Slavery in the Late Roman World*, 508. Finley, still the historian of ancient slavery most widely quoted by specialists in other eras and disciplines, regarded it as an exceptional phenomenon: Finley, *Ancient Slavery and Modern Ideology*, p. 135.

⁷ Harper, *Slavery in the Late Roman World*. Harper also makes a case for the continued importance of slavery in a rural context, though this is much less well documented.

⁸ Among this minority, Bois, *La mutation de l'an mil*, presents by far the most extreme case; Bonnassie, 'Survie et extinction', is generally considered a more tenable argument along these lines. Although Hammer's book is called *A Large-Scale Slave Society*, he does not work with a substantially different model of large estate exploitation from that posited by other historians; the title is based instead on taking much more seriously than most other historians the legal disabilities mentioned in law-codes as applying to *all* people defined as unfree, so that its argument is much less controversial than it sounds.

⁹ Karras, *Slavery and Society*, p. 69; Rotman, *Les esclaves et l'esclavage*, p. 33; more stridently, Wyatt, *Slaves and Warriors*, p. 2 (bizarrely accusing economic explanations of attempting to 'sanitize' the institution).

of serfdom, merging the free poor and the descendants of slaves.¹⁰ Practically every part of this picture has now been overturned. *Coloni* have been reevaluated as a highly heterogeneous group, whose unity lay chiefly in their mode of assessment for tax purposes; they now tend to be seen as a dead end rather than the starting-point for the formation of a new class.¹¹ Slave labour, meanwhile, is now also known to have been only rarely used as a distinctive form of organization of economic production (or, in Marxist terms, a 'slave mode of production'): even under the early Empire, *latifundia* had only ever been an exceptional phenomenon, geographically limited to a very few core regions such as Italy, and the vast majority of rural exploitations had consisted in small-scale farming units and tenancies of comparable size to those found in later periods. These arguments, mostly published during the 1980s, effectively de-coupled the issue of legal status from the overall organization of economic production.¹²

That said, the fact that slavery did not ever correspond to a dominant mode of production, nor to any single kind of organization of labour, does not mean that it was not still economically important outside that framework—if nothing else, as a quantitatively significant source of labour with its own economic logic (impacting, if not the organization of the productive process, then at least the cost of production and the competitiveness of other forms of labour, such as wage labour).¹³ Economic history has remained central to the study of Roman slavery under these more modest terms. The large numbers of slaves engaged in production under the Empire do seem to have been dependent on the existence of a combination of economic conditions rarely found in the premodern world—such as extensive commercialization and consequent possibilities for the production of specialized cash crops intended for the market, a high degree of urbanization, and very high levels of social and economic differentiation (it has recently been calculated that the top 1.5 per cent of the population, the imperial 'super-rich', owned about half of all slaves under the late Empire).¹⁴ In that sense there is still a marked discontinuity between the Roman Empire and the early middle ages, when the overall direction of economic change tended essentially towards economic simplification, the end of

¹⁰ Weber, 'Die sozialen Gründe'. On late Roman *coloni* developing into medieval serfs: Fustel de Coulanges, *L'alleu et le domaine rural*, p. 643.

¹¹ The bibliography on the late antique colonate defies footnoting, but for crucial contributions see Carrié, 'Le "colonat du bas-empire"' and 'Un roman des origines', for the most extreme denial that *coloni* had any concrete socio-economic existence. See more recently Sirks, 'Reconsidering the Roman colonate'; Sirks, 'The colonate in Justinian's reign'; Sirks, 'Did poverty lie at the origin of the colonate?' Bloch was the first to disprove the notion that medieval serfs were related to late antique *coloni*, seeing them as deriving from *servi* instead: Bloch, 'Serf de la glèbe' and 'Les *colliberti*', p. 241. See also Wickham, *Framing the Early Middle Ages*, pp. 521–7, for an explanation of similarities between late Roman *coloni* and central medieval serfs without the need to imagine a direct line of continuity.

¹² Finley, *Ancient Slavery and Modern Ideology*, pp. 31–5; Whittaker, 'Circe's pigs', pp. 89–94—both stressing the marginality of plantation-like *latifundia*, which led them in turn to doubt the extent of change in economic organisation between the early empire and the late empire, as well as between the late empire and the early middle ages. On the common misunderstandings between ancient and medieval historians on this count, see Wickham, *Framing the Early Middle Ages*, pp. 262–3.

¹³ On the latter, see Scheidel, 'Real slave prices'.

¹⁴ On the richest 1.5 per cent of the population owning about half of all slaves: Harper, *Slavery in the Late Roman World*, p. 59.

cash crop production and exchange, and relative elite impoverishment.¹⁵ All of this implied fewer and less diverse uses for slaves in productive roles, and less scope to support large numbers in non-productive ones, inevitably reducing the quantitative impact of slavery. Perhaps because early medieval slavery presents fewer exceptional traits requiring a specifically economic explanation, the economic dimension of the topic has been increasingly neglected by medievalists.¹⁶

Medievalists had in any case been engaged for quite some time in a separate conversation, in which social relations took precedence over economic arguments. The slave workforce was broadly accepted as having consisted essentially of tenants from very early on in the medieval period (these are often referred to as *servi casati*, or ‘huted’ slaves). The transition question for medievalists therefore depended less on the fate of *latifundia* and more on the character of labour relations: the intensity of control wielded by landlords, and also how different the situation of unfree tenants was from that of free ones. Serfdom was seen as resulting from the increasing loosening of the relationship between legal categorization and actual socio-economic conditions, and a growing similarity between the experience of life and terms of tenure of the free and the unfree. In this sense, the ninth century is generally accepted as the latest possible moment by which most people referred to with the old Latin terms for ‘slave’ (*servus*, *ancilla*, or *mancipium*) should start to be translated as ‘serf’ instead.¹⁷ This has become such a strong and long-standing tradition that, in contrast to more specialist studies, general histories of slavery usually all but ignore the early middle ages, which are often presented as a period of slump separating the two high-water marks of Roman and later medieval slavery.¹⁸

Other medievalists took their distance from a socio-economic approach to concentrate more on a political reading of slavery, ascribing to it a structuring role in society as a whole: this involved considering slavery not in terms of any particular kind of economic organization or living conditions, but in terms of exclusion from a political community, sorting those with a stake in the public order from those without. On the face of it, this would seem to constitute an even less promising line of enquiry for continuity arguments than the economic one, since the disappearance, along with the Empire itself, of a concept of citizenship clearly represents

¹⁵ Wickham, *Framing the Early Middle Ages* and Ward-Perkins, *Fall of Rome*, both make arguments for early medieval economic simplification, albeit from very different perspectives.

¹⁶ See n. 9 above. The exception is the slave trade during the Carolingian period, but this treats slaves exclusively as a commodity: McCormick, *Origins of the European Economy*; McCormick, ‘New light on the Dark Ages’. See Chapter 1, p. 24.

¹⁷ Bloch, ‘Comment et pourquoi’, pp. 161–2, ‘Liberté et servitude personnelles’, p. 289; Barthélemy, ‘Qu’est-ce que le servage’, pp. 244–9, and, on earlier historiography, *The Knight, the Serf and the Historian*, pp. 70–7.

¹⁸ Verlinden, in his monumental *L’esclavage dans l’Europe médiévale*, excluded the rural unfree from his investigation from the Carolingian period onwards. Most recently, Fynn-Paul, ‘Empire, monotheism and slavery’, pp. 15–20. (The exception has been Stuard, ‘Ancillary evidence’, though her argument applied only to women.) This is probably also why those medievalists who argue for the continued relevance of slavery through the early medieval centuries sometimes write as if they were uncovering a dirty secret, especially when discussing the country in which they are working (for Britain: Pelteret, *Slavery in Early Mediaeval England*, p. 1; Wyatt, ‘The significance of slavery’).

a highly significant rupture in terms of political culture, by removing the key foil to the idea of slavery. Curiously, however, political organization has been the basis on which the most entrenched arguments for continuity have come to rest. Some medievalists thus placed the point beyond which society stopped being organized along the 'ancient' model (that is, following a fundamental dividing line between free and unfree) as late as the eleventh century—the century of weak kings and aggressively independent lordship, when the final disappearance of a 'public' political and judicial sphere, and the triumph of private lords eager to oppress all peasants regardless of status, was argued to have finally made the distinction irrelevant.¹⁹ This line of thinking, mostly characteristic of French historiography and commonly referred to as 'feudal mutationism', sees the free/unfree opposition as having been kept in place essentially by the power of institutions, and especially of the Carolingian state, which looms large in treatments of this issue.²⁰ One has to wonder, though, how helpful it might be to create such a profound break in periodization on the basis of an opposition between two great models of 'society', taken as largely untestable, abstract, and homogenous monoliths (one with a public community and one without), rather than on the basis of what contemporaries were actually trying to do with unfreedom in practice across the period.

Outside this particular school, by far the most extreme in positing continuity from antiquity, early medievalists have tended to adopt a more composite, eclectic approach in their search for slaves, focusing more on the various disabilities that applied to them as individual subjects rather than offering broad characterizations of society as a whole. These disabilities are often presented in the form of a checklist combining multiple socio-legal parameters, ranging from level of economic dependence to restricted access to specific privileges or rights.²¹ The problem with a multiplicity of different criteria, however, is that it is hard to see what combinations might properly be called 'slavery' and which 'not-slavery' or serfdom. Although Finley's famous comparative checklist (covering access to property; control of labour; liability to or immunity from punishment; judicial rights; family life; social mobility; and political, military or sacral duties and privileges) is sometimes referred to by medievalists as if it helped to provide a clear-cut evaluation of whether slavery

¹⁹ Georges Duby characterized the tenth-century distinction between free and unfree as still rooted in exclusion from 'public' institutions, and thus indicating the persistence even at this very late date of an 'ancient' approach to status distinctions, albeit one which a Roman historian would struggle to recognize (Duby, *La société*, pp. 110 and 210). Marc Bloch, in a classic article, had adopted a not dissimilar perspective, though he made his point in much less stark terms, arguing for a very slow transformation which was only made complete by the 'definitive abeyance of the state' associated with the post-Carolingian order (Bloch, 'Comment et pourquoi', p. 162; *La société féodale*, p. 363).

²⁰ Duby, *La société*, pp. 115–16; Poly and Bournazel, *La mutation féodale*, pp. 121–2. Even for Marxists such as Bois and Bonnassie, the analysis of slavery proposed by Duby's school has been political more than economic: Bonnassie discussed economic explanations, but defined slavery above all as a mechanism of exclusion rather than as a mode of production ('Survie et extinction'); Bois ascribes the end of slavery to a 'ideological upheaval' (*La mutation de l'an mil*, p. 49). Feudal mutationism has devotees in anglophone historiography as well, though these tend to be less interested in the transition from slavery to serfdom: e.g. Bisson, 'The "feudal revolution"', pp. 41–2.

²¹ See for instance Pelteret, *Slavery in Early Mediaeval England*, pp. 241–50; Renard, 'Les *manipia* carolingiens étaient-ils des esclaves?', pp. 183–4.

could still be said to have existed, he was himself very clear that what he was presenting was a typology of *all* possible rights to which access could be granted or denied, and that the question of where on this spectrum the dividing line between free and unfree lay ‘must be weighed and judged in terms of the whole structure of the individual society under examination’—which is to say it needs to be worked out on a separate, culturally dependent basis.²²

All of these potential disabilities, however, can in some way be related back to a wider notion of exclusion, and this has been the key unifying trait privileged by anthropologists and sociologists who have attempted to define slavery in more global, comparative terms. Orlando Patterson famously defined the slave as someone whose social existence was in principle limited entirely to interaction with his master, and who was excluded from all further social relationships and ties of community (‘social death’).²³ Alain Testart, along not dissimilar lines, proposes as his baseline definition that slavery, whatever the specific form it may take in any given society, is always a status characterized by exclusion from at least one dimension of community considered to be fundamental: family in lineage societies; religion in Islam or later medieval Mediterranean slavery; the city-state and citizenship in Greece and Rome.²⁴ This is a highly flexible definition, taking the institution of slavery as a changeable and varied phenomenon, remade by each society to serve its own distinctive purposes.²⁵ In this approach, studying slavery becomes less and less about gauging actual, objective experience of life, and more about identifying a subjective juridical status.²⁶ Where the fault line between free and unfree is placed in any given society then becomes revealing of its fundamental cultural make-up. This more explicitly juridical approach also has the advantage of making room for potential as well as actual treatment. A key distinctive trait of slavery is the fact that it determined not just how people actually lived their lives, but what they *might* have to endure, and their vulnerability to potential abuse as much as their actual experience of it. This is why trying to measure and distinguish between ‘harder’ or ‘easier’ actual conditions of life is not in itself very helpful in order to determine either the continued existence or the demise of slavery. What matters is that a juridical and conceptual distinction was made by members of the society being studied. An apparent blurring of boundaries between slave and free in practical terms does not necessarily indicate an institution in a process of decline or decomposition; it can be observed to some degree even in those societies where the

²² Finley, ‘Between slavery and freedom’, p. 248; see also Finley, ‘Servile statuses of Ancient Greece’.

²³ Patterson, *Slavery and Social Death*.

²⁴ Testart, ‘L’esclavage comme institution’, p. 39. Unlike Patterson, Testart does not regard slaves as necessarily *complete* outsiders. He also adds as part of his definition that masters are always recognized the right to use their slaves to serve their own material benefit.

²⁵ Testart, ‘L’esclavage comme institution’, p. 41: ‘L’existence de l’esclavage ne définit pas un type de société, c’est la société qui détermine le type d’esclavage.’

²⁶ ‘Juridical’ in the widest possible sense of social norm: it does not, of course, amount to saying that the existence of learned or written law is a precondition for that of slavery, merely that it relies on the existence of a group explicitly designated as separate in principle, and subject to a distinctive range of disabilities not applicable to full members of the community. Testart, ‘L’esclavage comme institution’, p. 32: ‘Ce n’est jamais le fait qui définit l’esclave, mais le droit.’

slave/free division is generally thought to have been at its most extreme, as in classical Athens.²⁷ The key point is that the juridical distinction between slave and free does not either simply reproduce or enforce a social or political one: it adds a wholly different, separate dimension.

How far can this approach help us with early medieval slavery? Its clarity and flexibility make it attractive on a theoretical level, but it is also very difficult to apply in practice. The type of source material we would expect to yield the greatest amount of information on juridical status for this period is written law. At least to this extent, looking for early medieval slavery via a more juridical definition would tie in with another long-standing historiographical tradition reaching back well into the nineteenth century, namely that of legal history. The legal historical approach to early medieval slavery has led to arguments for continuity (on the basis of the deep conservatism of written laws and law-codes produced during the early medieval period), as well as for change (on the basis of the appearance, alongside these conservative clauses dealing with *servi*, of new, seemingly intermediary categories of status unknown in Roman law and not clearly aligned with either freedom or unfreedom, which have been seen by some as the first steps towards serfdom; this latter strand is particularly important for German historiography).²⁸ There is a fundamental methodological problem, however, with scouring early medieval written laws produced during this period for usable social facts, since their content has long been recognized as having had only a tenuous relationship with the actual business of dispute settlement or with maintaining the political and social order.²⁹

Some historians have hoped to sidestep this problem by reading laws as a value system instead: Ruth Mazo Karras, in her study of Scandinavian slavery (inevitably, given the dearth of other evidence, very dependent on the evidence of laws), thus opted to read laws as evidence for cultural construction, *as opposed to* actual social relations.³⁰ But laws are in fact an equally problematic source for cultural values and norms. This is for two reasons. The first is their deep reliance on the thought-world of earlier Roman law. Even if, as Finley argued, medieval unfreedom is best understood as a continuum rather than the stark dichotomy characteristic of Roman slavery, medieval legal texts contain little hint of this, and continued to operate in dichotomies throughout the period.³¹ The juridical category itself could clearly change profoundly without making many waves within the written legal

²⁷ Vlassopoulos, 'Slavery, freedom and citizenship in classical Athens'.

²⁸ The classic German work on early medieval slavery from a legal historical point of view is Nehlsen, *Sklavenrecht*; more recently see also the important book by Stefan Esders, *Die Formierung der Zensualität*. For an alternative explanation of these intermediary statuses, see Chapter 5, pp. 192–3, and also Rio, 'Half-free categories'. Hammer, *A Large-Scale Slave Society*, has a more eclectic inspiration, but for his definition of slaves depends very much on this legal historical tradition.

²⁹ For the most comprehensive programmatic statement against using law for social history, see Davies and Fouracre, *Settlement of Disputes*; see also Wormald, 'Lex scripta'.

³⁰ Karras, *Slavery and Society*, p. 37: 'The dichotomy between freedom and unfreedom... is a medieval construct, if not one that reflected actual social relations'; it represents 'the way society constructed itself' (p. 39).

³¹ Finley, 'Between slavery and freedom', p. 249.

tradition. For instance, even the legal definition of slaves as property does not help us in distinguishing between slavery and serfdom, since it continued to be reiterated as a principle far into the late middle ages, including in Northern Europe, where no renewal of chattel slavery took place.³² The underlying assumptions behind this idea evidently did change across the centuries, but the texts themselves do not tell us so, or in what way. Indeed, notions of what property itself was did not remain stable through the period; in the early middle ages it often did not, for instance, imply the power to buy and sell.³³ Clearly, then, there would be a certain amount of circularity in taking the fact that laws continue to talk about *servi* and *mancipia* and to confer on lords rights ostensibly similar to those granted to masters in the Roman world as an automatic sign of cultural continuity.

The second reason is that the cultural reach of laws beyond the highest elite level is just as doubtful as their practical one. They were mostly produced in highly rarefied circles, in written form and (outside Britain and Ireland) in Latin, and little effort was made to make them available for widespread consumption. This is admittedly the case for practically all of our source material, but it does make it very difficult to see early medieval laws on slavery as representative of a widely shared point of view. There is no reason, after all, to assume that early medieval societies were at all unified or coherent in their understanding of what the distinction between free and unfree was about. Using laws as a reflection of cultural values in general, as opposed to those of the elite groups actually responsible for drafting these texts, is just as problematic as the earlier positivist approach had been in social terms.

The problem with these different approaches, then, is either their inflexibility (if considering the issue in economic terms, by starting with a particular kind of economic organization and/or quantitative impact in mind; if in social ones, with a predetermined type of experience of exploitation; if in political ones, a particular structuring of society and of state power), or (if in juridical terms) a perhaps excessively static and elitist representation of ‘culture’, not open enough to the possibility of cultural clashes or of conflict between different contemporary perspectives.

THE APPROACH OF THIS BOOK

Rather than developing my own criteria for the identification of slavery as a discrete object of study, I will instead focus on the deployment of unfree status as a

³² Magnou-Nortier, ‘*Servus—servitium*’, p. 274: in terms of law, ‘... le *servus* du XIII^e siècle ressemble comme un frère à celui du VIII^e... Dans ces conditions, vouloir décrire une évolution tient du propos oiseux.’ She argues that our problems are the result of category confusion, stemming from historians’ failure to distinguish between those who were *servi* by personal status (slaves) and people who were simply being subjected to *servitia* (duties) through function (serfs); both of these, she argues, coexisted side by side throughout the chronological scale, rather than representing an evolution over time.

³³ Any general definition of slavery as simply property, or as the right to buy and sell another human being, is thus likely to be unsatisfactory, since it is necessarily contingent on the existence of a particular concept of ownership. This accounts for the disaffection with this definition among anthropologists: in very different ways, Patterson, *Slavery and Social Death*, pp. 21–2; Testart, ‘L’esclavage comme institution’, pp. 33–6; Meillassoux, *Anthropologie de l’esclavage*, p. 73.

strategy:³⁴ that is, how and why it was produced and reproduced, both for individuals and collectively. One advantage of approaching unfree status as the result of an act of labelling rather than as a static object is that it forces us to confront a variety of different possible motives for it, instead of privileging unifying factors for the purpose of formulating a definition. For instance, the function of exclusion, highlighted in much recent and less recent anthropological work on the subject, is not necessarily the most important function of slavery in all times and places; it is only that which all forms of slavery have in common. Unfree status was capable of fulfilling many functions, in areas as diverse as labour, honour and display, or sexual gratification. Like any other generic characterization of a human relationship, it operated at many different levels.

In this sense, slavery and unfreedom should be approached along the same lines as other major types of social bond, and allowed a similar diversity of functions. Kinship, for instance (to cite a form of association often presented as an antithesis to slavery), has also been imagined in very different terms, and with different applications, in different cultures, and is also highly subject to change across time depending on shifts in overall social structure. Like slavery, its membership is usually conceptualized as rooted in simple, objective criteria in principle (biological descent for kinship, the experience of total domination for slavery), while being openly acknowledged as infinitely more complex in practice—and without this complexity undermining the initial concept in any significant way. Like slavery, it is a kind of power relationship, but one enforced with highly variable levels of intensity. Like slavery, its baseline purpose in *all* societies is to create and enforce a distinction between insiders and outsiders, but it also always fulfils many other functions apart from this one, and these vary enormously from society to society. Like slavery, kinship also always corresponds to a legal entity determined by rules and prescribed obligations, but no one would think of it as being limited to this dimension, since it also carries so much emotional, economic, and symbolic baggage. Like slavery, it plays a determinant causal role in the definition of personal relationships in individual cases, but it also exists as a meaningful reference point despite often extreme diversity in its specific manifestations (for instance, the fact that in our own society some families are much more supportive of their members than are others does not in itself turn the family into a meaningless concept).

³⁴ The approach of this book therefore has something in common with that of Joseph C. Miller—above all in stressing, first, the need to focus on the strategies of slavery, rather than its practical outcomes in terms of conditions of life (Miller, *The Problem of Slavery*, p. 4); second, the constant adaptation and reinvention of such strategies according to context, and the weakness of institutional inheritance as an explanation (p. 25; see also Miller, 'Slaving as historical process', p. 98); and third, the need, in order to understand such strategies, to expand our viewpoint to include not just the one-to-one master–slave relationship, but also how masters used slaves to try to dominate or compete with other free people. On the other hand, I do not take this strategy to be primarily political in nature (Miller, *The Problem of Slavery*, p. 31). Miller's rejection of the notion of 'unfree' as an overlapping category with 'slave' (pp. 122–6) also does not work so well for the early middle ages (a period which he admittedly does not discuss), nor does his refusal to recognize any 'institutional' dimension to slavery outside a New World context (though what Miller means by 'institution' is less clear than one might have expected given the centrality of the concept in the book).

Both slavery and kinship are, therefore, inherently promiscuous institutions in Michael Mann's sense, 'drawing in and structuring elements from many areas of social life'.³⁵ One implication of this is that the question of continuity or change is impossible to answer if it is applied to slavery as a single, unitary phenomenon. In order to understand what happened to unfreedom in the early middle ages, we need to be able to envisage as many different transformations and disappearances as there were different areas of social life in which it could be advantageously deployed. It could take on new functions, abandon some, or substitute some for others. This means unfree status needs to be broken down into many different roles before we can determine what purposes were, at any given time, best fulfilled through the instrument of legal status—and when they stopped being so.³⁶

Recognizing these multiple roles does not mean having to give up on the overall coherence of slavery as a topic, because in all these different areas of life its deployment corresponds to a distinctive strategy. What makes it distinctive is that there were, and have always been, many alternative ways of achieving similar results. It is possible to oppress people to an almost identical degree without conceptualizing them as unfree, and outside the framework of any formal legal regime.³⁷ Denying rights formally is not the only way to achieve control over someone: people can be excluded, deprived of honour, sexually coerced, or forced to work without proper reward without necessarily being defined as slaves.³⁸ Early modern household service, for instance, is sometimes cited as comparable in terms of its degree of oppression. To give another example, the fact that there was no later medieval spike of chattel slavery in Northern Europe, as there was in the South, does not mean that Northern Europeans were somehow nicer or more freedom-loving, but simply that they could fulfil their requirements for the control of domestic labour in other ways. It also does not mean their hold on the free people who served them was necessarily lesser in real terms. The only thing that makes unfreedom in the early middle ages, or in any other period, different from these other ways of framing a highly oppressive relationship is the fact that it rested on a legitimizing legal claim. The key question addressed in this book, therefore, is what categorizing people in this way allowed lords to do that they could not otherwise have done simply by virtue of their existing socio-economic superiority. Why were lords so keen to categorize some of their dependants as unfree, but not others? What added advantage did they think it would give them?

Answers to these questions are likely to have varied enormously from region to region, from century to century, and indeed from lord to lord. The characteristic

³⁵ Mann, *Sources of Social Power* vol. 1, p. 28.

³⁶ Mann's salutary observation that 'there are no one-to-one relations between functions and organisations' is highly relevant here: *Sources of Social Power* vol. 1, p. 18.

³⁷ Davies, 'On servile status', p. 229.

³⁸ Now, of course, they *would* be defined as such on the basis of such treatment, but that is because we now live, uniquely in human history, in a world where no one is rightfully a slave, and where slavery has become a crime of which people need to be convicted according to objective criteria—as opposed to what it was in all previous historical contexts, namely a set of enforceable and legitimizing claims.

mixture of, on the one hand, extreme conservatism in the terminology and in the formal legal content of early medieval unfreedom, and, on the other, the extreme instability in its practical referents points to a need to distinguish between two very different forms of reproduction: institutional reproduction on the one hand, and social reproduction on the other. Institutional reproduction represents the road of the least effort: it takes a very good reason to bring about institutional change, so stability and continuity are the default position. Social reproduction, by contrast, is much more fluid and complicated, and relies on continuous effort and investment on the part of particular agents. It requires buying into a particular form of social organization, not because it constitutes the least effort-intensive option, but because it is regarded as offering particular benefits in the here and now. This kind of reproduction is therefore driven by highly localized and changeable possibilities rather than by tradition—and this is especially the case for the social reproduction of a category like unfreedom, which required a significant deployment of coercive power to be made to work at all. The upshot of this is that, while it is entirely legitimate to speak of passive, unproblematic ‘survival’ in the case of institutions, it is much less useful to do so when considering the ways in which contemporaries sought to use these institutions to their own advantage. Thinking in terms of lords’ and dependants’ strategies means thinking more in terms of what each generation, for their own particular local context, actually tried to do with unfreedom. Some of these experiments are likely to have been dead ends, because they responded to short-term needs, or had been the fruit of uncommon circumstances. Others, however, clearly answered needs that later coalesced into longer-term trends.

Thinking of unfreedom along these lines makes it easier to envisage the connection between slavery and serfdom, and to think through the wider problem of change over the long term. Existing definitions of slavery do not connect at all easily with definitions of serfdom.³⁹ Serfdom is typically used by historians to refer either to a certain type of social and/or labour relationship (tenancy with labour duties and no automatic right to leave) in existence throughout the medieval period; to a socio-economic class, fully constituted by the eleventh century of non-proprietor peasants living under the control of a private lordship, without outside recourse; or to a new, learned juridical concept developed and refined during the twelfth and thirteenth centuries. (To avoid confusion, I will confine my own usage of ‘serf’ to its twelfth- and thirteenth-century legal meaning in this book; for the earlier period, I use the English terms ‘slave’ only when referring specifically to the most heavily subjected end of the spectrum of unfreedom, and ‘unfree’ for everyone else, or when referring to the category as a whole.⁴⁰) This legal version of serfdom is sometimes referred to as ‘the new serfdom’ in the historiography,

³⁹ For an interesting discussion of competing definitions in the context of serfdom, see Bak, ‘Words and things’.

⁴⁰ It is even harder to choose between ‘master’ and ‘lord’ as translations for *dominus*, because the same person might be more like a lord to some of his unfree dependants and more like a master to others; I have used the two to convey slightly different nuances, rather than any more technical distinction.

to distinguish it from the unselfconscious, socio-economic meaning of serfdom that historians use for earlier times.⁴¹ Slavery, by contrast, does not correspond to any one kind of labour relationship, and it notoriously cannot be considered a class, so that it is only really comparable with the latest, legal version of serfdom. This means that for all earlier centuries—the ones during which all historians agree the crucial ‘transition’ must have happened—we are simply not comparing like with like when we ask ourselves whether what we are seeing are ‘slaves’ or ‘serfs’. This makes it very hard to imagine concretely how one might get from one system to the other.⁴²

The approach adopted here makes it much easier to compare like with like, because the transition from slavery to serfdom can then be understood more straightforwardly as a shift in the dominant claims which unfree status helped lords to make over dependants. I would characterize the difference in the following way: while both slavery and serfdom are designed to place a certain category of people at a fundamental disadvantage in terms of rights, slavery primarily concentrates on denying rights altogether, whereas serfdom is, instead, fundamentally geared towards charging for access to them instead. Central medieval lords allowed access to all sorts of fundamental rights—such as marriage, family life, and inheritance—in exchange for a range of traditional payments, which, taken together, constituted excellent tools for obtaining and consolidating serfs’ recognition of their own dependent status. The granting of rights to family and property, far from reflecting an easing of lords’ hold over their dependants, amounted to a reassertion of their domination—at least in the areas that they were interested in. Serfdom was not, as it is sometimes described, a straightforward improvement in the situation of unfree dependants: it was more a displacement in the aims to which the category was put, accompanied by an adjustment in methods.

THREE LEVELS OF ANALYSIS

I will address continuity and change on three separate levels in turn: terminology and labelling; practical forms of exploitation; and formal institutional and legal framework. The attribution of status labels constitutes the point of interface between the practical uses and the formal legal content of categories, but it does not correspond to either directly, because, just as people, when they used such terms, evidently did not have a single, stable practical referent in mind, they also did not necessarily have in mind the generic statements about unfree status made in formal written law. Any of these three levels could change, or stay the same, without affecting either of the other two. They are characterized by different paces of change, different degrees

⁴¹ Cursente, ‘Les médiévistes et les “nouveaux servages”’.

⁴² It may be telling in this respect that the clearest (if controversial) statement of an answer to this problem is that given in the feudal mutationist model, which posits a dramatic replacement of one by the other rather than a connection.

of responsiveness to external factors, and different scales in internal variation. Each of them corresponds to a different part of the book.

Terminology appears, on the surface, to be the level most resistant to change, the most dependent on inheritance, and the least responsive to changes in practice. As we have seen, our source material continues to use the same Latin vocabulary to designate unfree people (*servus*, *mancipium*, *ancilla*) throughout the first millennium and beyond. It is clear that these terms were not straightforward descriptors entailing any particular conditions of life or work: it is almost impossible to tell what exactly the word *servus* was intended to describe when it is found in an early medieval text without further contextual information. As I have argued, these words were, above all, *claims*. The continued use of the word *servus*, seen in the light of a claim rather than as simply a descriptor either succeeding or failing to reflect reality, can take on a new significance: the word was being used not as an unthinking inheritance, but actively, as a way of including under a specific type of subjection people who may have thought themselves not so very different from their free neighbours. Seen in this light, there is no reason to expect the consequences of such labelling to have been at all unified, which certainly fits with the available evidence: all that the use of such words implies is a common strategy of domination on the part of lords, not a common condition on the part of their dependants.

What sort of claim lords thought they were making by using and imposing such status labels is also likely to have varied according to their priorities in any given case. Although terminology, taken as a whole, remained extraordinarily stable over the centuries, it was therefore at the same time deeply *unstable* in terms of its specific applications, since its attribution often came out of short-term wrangling designed to suit very specific practical requirements. This, not an increasingly poor grasp of the original meaning of status words, is what gave the early medieval terminology of unfreedom such diverse practical referents.

I will explore the ways in which status labels became attached to particular individuals in Part I. Much depended on the scope for negotiation and bargaining power of unfree persons in relation to their lord, and this was partly determined by the means through which they had become unfree in the first place. I will explore this by concentrating on 'ways in' and 'ways out' of unfree status: the very moment of labelling, and often the situations where the difference it made becomes most evident. (Unfree status acquired by birth, by contrast, worked rather differently, and is discussed separately in Chapter 5.) The scope for negotiation was evidently at its lowest in the case of capture in a raid, when outsiders became imported into a society, which removed them from any pre-existing networks of support. Bargaining power could be rather higher in other cases, such as that of self-sale or self-gift, though it is important not to assume that insiders who became unfree would automatically have found themselves in a better position: some clearly had very little to go on, and could fall under the very harshest versions of unfreedom. Outsiders are discussed in Chapter 1; insiders in Chapter 2. Conversely, the precise meaning of the freedom conferred through manumission (Chapter 3), and how much freedom it actually entailed, could also vary enormously depending on its intended goals, and the particular pre-existing relationship between lord and unfree dependant.

At the level of the individual circumstances studied in this section, the picture is one of extreme diversity: at this level, there were in effect as many forms of unfreedom as there were lords with different exploitative strategies. The meaning of unfree status in each case was so much determined by personal circumstances and individual agency that unfree status ends up looking as if it corresponded to nothing much in particular, and was determined by already existing levels of inequality rather than being determinant in itself. Part II takes a step back from the minute points of difference which exercised the agents examined in Part I, and looks for wider trends.

Nearly all regions and societies of early medieval Western Europe used a wide spectrum of possible meanings for unfreedom, but the main emphases could be very different from region to region. These different trends in the uses of unfreedom were to a large extent, though not exclusively, determined by economic differences. Unfree status could be put into play in a variety of different economic niches: this is what makes it impossible to speak of slavery as being intrinsically either economically efficient or inefficient; it could insert itself into so many different economic settings as to make either statement meaningless.⁴³ The key distinction is that between unfreedom in the context of a household economy, and unfreedom in the context of large-scale exploitations (on which the existing historiography has mostly focused its attention). Household service, treated in Chapter 4, was the baseline, lowest-common-denominator form of exploitation in all regions of Europe at this time, though its symbolic and practical functions as well as its relative importance varied very significantly from region to region, and at different social levels. Chapter 5 discusses the social and economic pressures at work in the legal classification of tenants on large estates, where legal status fulfilled fundamentally different functions, and was periodically reinvented to facilitate the management of hierarchies within estate communities.

These different economic contexts, not differing levels of influence of the Roman tradition, account for the profoundly different 'look' of slavery across different European regions. Both styles of exploitation show marked discontinuity with the Roman situation. Part III looks for what impact, if any, these changes may have had on the legal and institutional framework for unfreedom before the twelfth century. Chapter 6 argues that for different reasons neither Church nor state had much of an interest in reforming or regulating unfree status. Instead, what laid the groundwork for its subsequent comprehensive overhaul in the twelfth and thirteenth centuries were the evolving and gradually converging priorities of lords, which focused less and less on denying rights, and more and more on granting them in order to obtain other things. The advent of serfdom as a legal entity did not finally come about as a belated recognition of a gradual change from slavery into serfdom; it was only made possible because unfree status was being used as an increasingly streamlined instrument—more efficient, perhaps, but also less open to experimentation than it had been during the early middle ages.

⁴³ Goody, 'Slavery in time and space', pp. 30–3.

PART I

DIVERSITY: WAYS IN AND WAYS OUT

1

Slave Raiding and Slave Trading

Slave raiding and slave trading constitute a crucial aspect of any history of slavery during this period, but also, unfortunately, one of the most unknowable. Unlike other types of traded goods, slaves are archaeologically undetectable: although archaeological evidence has played an increasingly important role in discussions of the slave trade during this period, it is at best indirect.¹ Surviving written sources rarely show an interest in discussing slave capture and trade. Even when they do, they do not give much of a sense of the relation between the two: when they discuss capture, they hardly ever say what happened afterwards; when they discuss trade, they hardly ever say how slaves had been obtained in the first place. Despite this scarcity of information, there is still far too much to allow a detailed examination in the space of a single chapter, so I will limit myself here to comparing broad trajectories over time in three main areas: the Slavic frontier, the British Isles, and Southern Europe.² Muslim demand represents a key factor virtually everywhere from about 800, but it affected different areas in different ways. Any reconstruction of the slave trade during this period is bound to be highly speculative; I only hope that the one I am proposing can help to make better sense of differences across Western Europe.

CAPTURE AND TRADE IN THE WRITTEN SOURCES: THE BLIND SPOTS

Written sources tend to present the capture of slaves as the outcome of conflict conducted on a grand scale. Historiographical sources (above all annals, which provide the bulk of the evidence for early medieval slave taking) showcase captive taking in the context of conflict between rulers and peoples, because these were the high-end political struggles they were interested in documenting. This leads to occasional mentions of entire peoples supposedly being taken into slavery, though when it is claimed to be on such a large scale, ‘enslavement’ is more likely to be used

¹ On this indirect evidence, though, see now Biermann and Jankowiak, *Archaeology of Medieval Slavery*; Fontaine, ‘Early medieval slave trading in the archaeological record’.

² For very comprehensive and helpful inventories of the surviving source material, see in particular Verlinden, *L’esclavage dans l’Europe médiévale*—a towering scholarly achievement, though his ‘Europe’ inexplicably fails to include the British Isles. For the British Isles, see the very detailed and careful review of sources in Pelteret, *Slavery in Early Mediaeval England*. More recently on the Slavic trade and Venice in particular: McCormick, *Origins of the European Economy*, pp. 733–77.

as a symbol of the victory of the stronger party and of its new political domination over the defeated, as opposed to the physical carrying off of entire populations.³ Operations involving smaller groups or individual captives tend to be mentioned only when the identity of the victims made the event particularly shocking, for instance if they involved religious men or women,⁴ or if they involved an extraordinary change of fortunes, as in cases involving high-status people: the paradigmatic case here is the story, as told by Bede, of Imma, a Northumbrian thegn and royal retainer captured after a battle and sold on to a Frisian merchant.⁵

This means that written sources are unlikely to tell us much about smaller-scale raiding, such as short-ranging cross-border raids, and they tell us even less about such activities occurring within a single polity. This does not, of course, mean that it did not happen, and it is probably unsafe to assume that raiding activity happened only across political borders. That most barbarian successor-states produced very severe laws against kidnappers operating from within their kingdom should tell us something.⁶ The penalties were much higher for selling victims abroad, on the assumption that this would make them virtually irrecoverable. The next step along these lines was to try to prevent sale abroad by putting pressure on possible buyers and middlemen: this concern is evident, for instance, in the ninth-century treaties made between Carolingian kings and Venice, which aimed to prevent the sale of Christians (initially only Carolingian subjects, but later extended to all Christians) to the Muslim world.⁷

The Frankish-Venetian treaties went beyond the standard concern of most earlier laws, which had been to protect only the members of the political community they applied to, and stretched to trying to prevent the sale of Christians to ‘pagans’ (a term which included Muslims) in general. In this Carolingian kings were taking on a concern which up to that point had been essentially confined to sources produced within an ecclesiastical milieu. No doubt the arrival or return on the scene in the ninth century of raiding-and-trading Muslims and Vikings was instrumental in prompting them to adopt this stance. Churchmen, above all in church councils, had already been expressing deep distress for a long time about the sale of Christians to pagans. By contrast, they expressed no such worries, and therefore did not create

³ E.g. Northumbrians reducing ‘the Picts’ into slavery: Stephen of Ripon, *Vita Wilfridi*, pp. 40–2.

⁴ E.g. *Annales Bertiniani* s.a. 838 on nuns carried off by Saracens (for an English translation: Nelson, *Annals of St-Bertin*); *Annales Regni Francorum* s.a. 807 on sixty monks from Pantelleria carried away by pirates and sold in Spain; on the followers of Methodius, McCormick, *Origins of the European Economy*, p. 250, n. 51.

⁵ Bede, *Ecclesiastical History* IV, 22. Imma was also used as an example by Ælfric: *Catholic Homilies Second Series* no. 21, p. 204; for an older edition with translation: *Sermones Catholici*, pp. 356–9.

⁶ *Lex Ribuaria* 17; *Liber iudiciorum* V, 4, 11; *Leges Alamannorum* XLV–XLVII; *Lex Saxonum* XX; *Lex Thuringorum* XXXVIII.

⁷ McCormick, *Origins of the European Economy*, pp. 764–5 on Carolingian treaties with Venice. Pactum of Lothar I (a. 840): *Capitularia* II, no. 233, c. 3 (against the sale of Christian *mancipia*) and c. 33 (against castration)—reiterated in the Pactum of Charles the Fat (a. 880): *Capitularia* II, no. 236, cc. 3 and 33; and in the Pactum of Berengar I: *Capitularia* II, no. 238, cc. 3 and 33. Decretum of 960 between Venice and Byzantium: Tafel and Thomas, *Urkunden*, no. 13. From the penitential of Halitgar of Cambrai against selling Christians abroad: Schmitz, *Bußbücher*, p. 487 (under the title ‘De adulterio’); translated in McNeill and Gamer, *Medieval Handbooks of Penance*, VI, 93, p. 312.

a record, regarding Christians trading Christians to other Christians. This makes raiding by, and slave trading with, Muslims or Vikings inherently much more visible than any other kind. Jewish traders are another example: they were long thought to have been the main slave traders in Western Europe, but this may be simply down to the fact that they presented Christian commentators with a more obvious problem, leading to a particularly high level of visibility in the source material.⁸

All this skews the evidence profoundly towards presenting slave raiding and slave trading as an essentially cross-border, cross-cultural, and/or cross-religious phenomenon. The point is that the writers of our sources were not just discussing slave raiding as a way of obtaining merchandise; they were, above all, discussing it as a symbol of the humiliation and domination visited on political or religious rivals—or, conversely and equally crucially, those experienced by their own side at the hands of such rivals. This, by implication, turned the ability to defend against slave raiding into an important test of the effectiveness of both political and religious leadership. This explains why Christian bishops engaged in so much philanthropic ransoming, and also the insistence of laws on not selling the kingdom's own people into slavery (unless the point was to exclude them from its political community, as sometimes in the case of penal enslavement).⁹ Carolingian kings included all Christians under their putative protection in the agreements they made with Venice because they were more ambitious than their predecessors in their aspirations to leadership of Western Europe at large. Judging by the lower commitments stipulated in later iterations of the same treaties, however, these aspirations were clearly not met.¹⁰

For all these reasons, it is extremely difficult to derive a representative picture of the slave trade from surviving written sources. That said, the emphasis these sources placed on clashes between political and religious communities does have something to tell us about the wider cultural impact and perception of the slave trade, and in this they can still be highly revealing. The practical and material underpinning that might have produced these cultural constructs, however, is much harder to get at. In order to reconstruct this, historians have tended to turn to a different type of argument, and to more indirect evidence.

⁸ For example: Gregory the Great, *Registrum epistolarum* IX, 105 on the Jewish slave trader Basilius (from 599), vol. 2, pp. 657–8; on Jewish ownership of slaves in Gregory, see Serfass, 'Slavery and Pope Gregory the Great', pp. 97–102. Agobard of Lyon, 'De insolentia Iudaeorum', p. 192; for imperial letters protecting the property rights of Jewish merchants over their slaves: *Formulae Imperiales* nos. 30, 31, and 52; Zeumer, *Formulae* pp. 309–11 and 325. Regino of Prüm, *Libri duo de synodaliibus causis* II, 5, 41, also seems especially worried about Jewish traders and buyers. For arguments against Jews having been prime slave traders in Western Europe: Toch, 'Jews and commerce'; Toch, 'Was there a Jewish slave trade?'; Devroey and Brouwer, 'La participation des juifs', pp. 355–7; McCormick, 'New light on the Dark Ages', pp. 45, n. 64 and 52, n. 88; Constable, *Trade and Traders in Muslim Spain*, pp. 203–5. For *Radhaniyya* (Jewish merchants) at the Byzantine end of things: Rotman, *Les esclaves et l'esclavage*, pp. 104–6.

⁹ On the ransoming of captives by bishops, see for instance Klingshirn, 'Charity and power', on Caesarius of Arles; though they were not the only ones to do so (for an abbot, see Gregory of Tours, *Liber Vitae Patrum* XV.2). Bertram of Le Mans, in his will, freed some men and women living on one particular villa, all of whom Bertram had redeemed from captivity (Weidemann, *Das Testament des Bischofs Berthramn*, c. 69, p. 47). Laws against selling free people abroad: see n. 6 above. On penal enslavement abroad, see Chapter 2, pp. 58, 67.

¹⁰ McCormick, *Origins of the European Economy*, pp. 764–5.

SCALE AND CHANGE OVER TIME

Whatever their problems, the written sources are certainly sufficient to make the existence of slave raiding and trading undeniable. The main questions, then, involve scale, and the degree of integration and significance of these practices in the overall economic activity of each region.

A context of frequent armed conflict and conquest, as well as greater political fragmentation within Western Europe, led several historians to think that slave capture and trade peaked during the barbarian invasions of the fifth and sixth centuries, at a level even higher than that seen under the late Roman empire.¹¹ It is certainly not unreasonable to think that these political circumstances would have resulted in cheap human booty, and levels of political fragmentation are likely to be an important variable in terms of opportunity to take captives in short-range raids. But raiding and trading do not go automatically hand in hand: raiding can be an important political and cultural elite activity without necessarily leading to a great deal of trading.

This is essentially because supply is not the only consideration; one also has to consider demand. A peak in chattel slavery would have required the existence of correspondingly large-scale outlets, whether local (which could include use by the raiders themselves) or external. Neither of these conditions seems to have applied in the fifth and sixth centuries in most of Western Europe. The late Roman 'super-rich' had been a crucial outlet for large-scale household slavery, but they had depended for their wealth and consumption habits on property spread out over several different provinces, and seem to have disappeared relatively quickly along with the state that had guaranteed these property rights and facilitated their commercial transactions.¹² And however many more slaves might have become available for sale, an internal market trading in slaves for the purposes of agricultural production would not necessarily have developed in response, since taking advantage of this increased supply would have required a fairly drastic adaptation of existing forms of rural exploitation, and this does not seem to have happened (see Part II).

Raiders themselves certainly could and did retain the slaves they had captured, and in their case the human booty would have been acquired more or less cost-free—assuming, that is, that slave raiding came to them as an added bonus resulting from military activities they would have undertaken anyway; otherwise the cost of the expedition would have to be counted against the value of the slaves they obtained. Either way, slaves represented an investment that extended beyond the purchase price, however low it might have been, to upkeep and maintenance. Of course, there was more to slave raiding than simple cost–benefit calculations of this kind: prestige, for instance, was an important consideration, as well as, presumably, the ability to distribute slaves among military followers. But prestige relied on having

¹¹ Bloch, 'Comment et pourquoi', p. 30; Bonnassie, 'Survie et extinction', p. 308.

¹² Harper, *Slavery in the Late Roman World*, pp. 30–1, 500–1.

plentiful resources all round, so that even if raiders were willing to operate at some small degree of loss (which seems unlikely in any case), it is highly implausible that they would have been willing to operate at a substantial loss over any length of time by keeping more slaves than they could comfortably afford.¹³ In any case, the symbolic, prestige angle might be fulfilled well enough with relatively low numbers of captives.

There is also not much evidence for this early period of large-scale external outlets, perhaps unsurprisingly, since the fifth and sixth centuries were marked by conflict in a lot of different areas of Europe, North Africa, and the Middle East, so that imports are unlikely to have been necessary. Although, then, there was perhaps more armed conflict in this period than there had been under the late Roman Empire, and this *might* have produced more slaves, the market outlet for them was also much smaller at the receiving end. This means that, whatever the opportunities for slave taking, there was a limit to the number of slaves that could be absorbed within small-scale Western European polities and economies.

Although there are certainly isolated references to slave trading activity from the immediate post-Roman era (Bede's story about Gregory the Great's angelic Angle boys at a Roman slave market is the most famous example), it is, as we have seen, almost impossible to judge its scale from surviving sources, and overall economic circumstances do not give much reason to imagine that its volume was more significant then than at any other time.¹⁴ Slave raiding definitely happened in this early period too, and frequently enough to be deeply traumatic for the communities it affected, but it is probably more prudent to imagine it as an opportunistic, mostly small-scale by-product of raiding, conflict, kidnapping, and the occasional sale of a few individuals. The most famous of such individuals is, of course, Saint Patrick, who seems to have been taken in precisely this kind of raid (and on whom more later).¹⁵ This type of low-level slave taking remained a feature in many European areas for centuries, but it is difficult to imagine how it might have led on its own to the development of a quantitatively significant, long-distance, 'international' slave-trading *system*. For that, more was needed than the simple availability of bodies. In terms of trading systems, the early medieval peak is now in fact no longer seen as taking place in the age of the barbarian invasions so much as in the ninth to tenth centuries, in the wake of two fundamentally new phenomena: massive demand for slaves from the Muslim world, and the coming together of a vast Viking raiding and trading network. It is only then that the phenomenon of large-scale expeditions conducted with the express design of procuring slaves for sale starts to become relevant. The enormous qualitative as well as quantitative difference a sudden expansion in market outlets can make to existing slave-raiding practices is

¹³ David Wyatt has argued that slave raiding was a *purely* cultural, prestige-driven activity, and that all economic considerations should be removed from the discussion (*Slaves and Warriors*, p. 18), but it seems difficult to discuss the slave trade without referring to its economic aspects. Even if early medieval people did not have a discipline of 'economics', they certainly understood the concepts of cost and profit. See Valante, 'Castrating monks', p. 176.

¹⁴ Bede, *Ecclesiastical History*, II, 1.

¹⁵ See below, pp. 30–1.

a well-known phenomenon in the case of sub-Saharan Africa in the early years of the slave trade to the New World; something akin to this also seems to have happened during these centuries in early medieval Europe.

THE SLAVIC FRONTIER

This large-scale slave trade, the first conducted on this scale since the days of the Roman Empire, involved mostly outsiders (Slavs from Eastern Europe) being sold to other outsiders (the Muslim Middle East, North Africa, and eventually, from the tenth century, Spain).¹⁶ It shows virtually no articulation with internal forms of labour within Western Europe, and seems to have dealt with slaves entirely as commodities for export. There would have been little competition from internal markets, since demand for traded slaves in the West seems to have been relatively low: economic growth in Francia and Italy relied chiefly on increasing control over tenants, and so did not expand the scope for imported, captive slave labour.¹⁷

Michael McCormick, in his monumental *Origins of the European Economy*, has put forward the most extended recent argument regarding the European slave trade to the Muslim world, and has revived the debate on the slave supply from Slavic regions.¹⁸ McCormick argues that the long-distance, cross-Mediterranean trade would have involved numbers sufficient to inject huge amounts of cash into the Carolingian economy—so much so as to give it a crucial causal role in the ‘origins of the European economy’ (or, to be more precise, the *Western* European economy). The argument rests on two key notions: first, that the demand from the Muslim world was extremely high; and second, that the Frankish Empire in particular managed to derive the main economic benefits from this demand, by becoming its privileged trading partners. Both rely on the large numbers of Arab coins either found or mentioned in the West, suggesting a positive balance of trade with the Muslim world, which McCormick explains through large-scale exports of slaves raided on the Slavic frontier and then exported, either directly or via Venice, which quickly became a key middleman in the slave trade business.¹⁹

The actual level of demand from the Muslim world has not been investigated fully by Islamicists and is very difficult to quantify; nevertheless, it seems clear that

¹⁶ On the demand from Spain, see n. 31 below.

¹⁷ On the use of household slaves in Francia, see Chapter 4, pp. 156–67. Jeffrey Fynn-Paul has gone so far as to suggest that the higher prices fetched by slaves on the Muslim market in fact drained Western Europe of its slaves, thus necessitating the development of alternative forms of labour for internal purposes (Fynn-Paul, ‘Empire, monotheism and slavery’, pp. 29–30). The argument relies on the notion that everyone who had a slave would have known or cared that they could get a good price for them in Baghdad, and in so far as it requires the slave trade to have had an enormous impact on overall internal economic organization, in a way that goes much beyond what McCormick ever suggested, it seems to be getting cause and effect the wrong way around.

¹⁸ McCormick, *Origins of the European Economy*, pp. 733–77; more succinctly: McCormick, ‘New light on the Dark Ages’.

¹⁹ Many of these coins are ‘virtual’ and feature as prices in documentary sources: see below, n. 29.

it was a great deal higher than anything seen in Europe in the centuries since the fall of Rome.²⁰ Surviving hoards do show that large quantities of Muslim silver reached Europe, particularly from the tenth century, and hoards do not even tell the whole story, since it seems that some slave trading took place without recourse to coin, and relied instead on a credit system.²¹ It also seems clear that European slaves were high value goods, certainly worth exporting over large distances: European slaves on average fetched much higher prices on the Eastern market than when they were sold within Europe.²² Since eunuchs were even more valuable, slaves could also be given an added value through castration (the value added was clearly sufficient to make up for the deaths of a proportion of those subjected to it).²³ There is no reason to doubt, then, that the slave trade to the East operated on a quantitatively significant scale—though whether it could ever have come close to competing with agricultural production as a key lever of the Carolingian economy is much less likely.²⁴

A much harder question is who chiefly benefited from it. This is even more difficult to tell on the basis of coins, since it is usually impossible to know what happened to them in between the place of issue and the place of the find, which are the only nearly always geographically identifiable points in the life of a coin. To identify who exactly the dealers in slaves were and who the raiders were, McCormick turned back to written sources, which is what led him to point the finger firmly at the Franks and the Venetians.²⁵

The distribution of the coin evidence, however, does not lend unambiguous support to the notion of a deep Frankish involvement in this new international slave trade. Recent research conducted by Marek Jankowiak into the numerous coin hoard finds from Northern and Eastern Europe suggests that the mother lode of Middle Eastern coins (and by implication the main profits of the slave trade) lay far beyond the Frankish frontier, not within it.²⁶ Although the comparison may admittedly be skewed by the fact that the Carolingian Empire reminted foreign

²⁰ Gordon, 'Slavery in the Islamic Middle East'. See also Nazmi, 'The functions of white slaves'; Meouak, *Ṣaḡāliba*, pp. 156–207.

²¹ Jankowiak, 'Dirhams for slaves', p. 8.

²² McCormick, *Origins of the European Economy*, p. 755; the same argument had been made by Verlinden, *L'esclavage dans l'Europe médiévale* I, p. 731.

²³ Hogendorn, 'The hideous trade'; Valante, 'Castrating monks'. Liudprand of Cremona, *Antapodosis*, p. 156, describes Verdun as a major centre for the production of eunuchs in the tenth century; Verlinden, 'Les *Radaniya* et Verdun'; Grabowski, 'Eunuch between economy and philology'.

²⁴ McCormick himself, in fairness, acknowledges it as only a distant second: McCormick, 'New light on the Dark Ages', p. 50.

²⁵ For Francia as the main beneficiary: McCormick, *Origins of the European Economy*, p. 761: 'Frankland led the way.' Iron shackles found in frontier zones also get a tentative mention; finds are collected in Henning, 'Gefangenenfesseln im slawischen Siedlungsraum'. The sample for the early medieval period is quite small, and shackles, of course, might be needed for a variety of reasons, as slaves were not the only people who might need to be restrained (as McCormick notes, p. 741, n. 60). Taking the shackles argument further, see also Henning, 'Strong rulers—weak economy?'

²⁶ Ninth-century hoards are admittedly fewer than those from the tenth century; but they are also found in different places (Eastern Prussia only has ninth-century hoards, for instance). Jankowiak, 'Dirhams for slaves'. This deals mainly with the evidence from the tenth century; publication of this paper, and Jankowiak's promised larger work inventorying hoard finds, is eagerly awaited. For studies of such hoards and their meaning, see Noonan, *The Islamic world, Russia and the Vikings*.

coins while Eastern Europe did not, the far better evidence for Middle Eastern coins beyond the Frankish frontier at least shows that profits from sales of Slavs did not necessarily go to the Franks, but to a very significant extent to Scandinavians or to other Slavs—perhaps even to the point of providing a boost towards state formation in Slavic territories.²⁷

Regarding hoards found within Western Europe, Eduardo Manzano Moreno has recently made the further point that taking all ‘Arab’ coins as a single group is misleading, and that only a small number of these coins actually emanated from the Middle East itself (the long-distance destination mostly considered by McCormick). Those that were minted there often turn up in hoards with an unusual composition, suggesting they are more likely to have reached the West via intermediaries, rather than constituting evidence of direct trading.²⁸ Where the existence of these ‘Arab’ coins is only deduced from Italian documentary references (as is the case for the vast majority of them), there is even less scope to ascertain their provenance, and it is impossible to know for sure whether they are indicative of long-distance, cross-Mediterranean trade with the Middle East, or of much shorter-range contacts, for instance with Muslim Sicily or North Africa.²⁹ All this makes it difficult for this evidence to bear the weight of the argument that the demand for slaves from the Middle East, however large it may have been, necessarily brought a great deal of wealth into Western Europe through direct trade.³⁰

There are, then, ways of accounting for Muslim coin finds in Europe that do not involve the positing of a both massive and very long-distance international trade linking Western Europe directly to a Middle Eastern centre of demand. Venice was undoubtedly an important conduit for these coins, but it could equally well simply

²⁷ Jankowiak, ‘Dirhams for slaves’, points out that hoard finds of Arab coins are not always in areas showing Scandinavian influence, so that at least by the tenth century it is reasonable to assume that slave taking reflects not just Viking activity, but Slav-on-Slav raiding.

²⁸ Manzano, ‘Circulation de biens et richesses’, pp. 148–54.

²⁹ A total of 1,200 *manco*si feature outside penalty clauses in sixty-one documents, all from Italian archives (McCormick, *Origins of the European Economy*, p. 336, with a list at pp. 811–14). By contrast, there have been only fifty-four separate finds of actual, physical coins of various provenances for the late seventh to early tenth centuries, accounting for under 600 actual coins, 400 of which were lost in the early modern period (p. 344, with a list at pp. 816–34). Even if one accepts the virtual coins as having once been actual coins, it is impossible to know where they would have been minted, so their presence would not automatically point to Baghdad. Further potential problems involve the question of what exactly the word *manco*sus meant to Italian scribes, and whether or not it refers to the Arab gold *dinar* (McCormick, *Origins of the European Economy*, pp. 319–37). For an early ultra-critical (and now discarded) argument, see Grierson, ‘The myth of the *manco*sus’; in response to McCormick, Prigent, ‘Le mythe du *manco*sus’, arguing that the *manco*sus in Italian sources refers to Byzantine coins minted in Sicily; for another critical response to McCormick, Delogu, ‘Il mito’.

³⁰ Manzano, ‘Circulation de biens et richesses’, p. 152, sees dirhams from Syria or Iran found in Southern France in the eighth century as resulting from Muslim military presence, not commerce. For concerns about how far even Venice could count as the major point of transit for European slaves to the East, as opposed to this slave trade being dominated from East-Central Europe and by Vikings: Curta, ‘East central Europe’. For an earlier hypothesis of a ‘Northern arc’ bypassing Western Europe, see Hodges and Whitehouse, *Mahomet, Charlemagne et les origines de l’Europe*, p. 81, discussed by McCormick, ‘New light on the Dark Ages’, p. 25.

have served a smaller-scale, shorter-range slave trade to Muslim regions much closer to home, such as Africa, and, from the tenth century, Spain.³¹ A shorter-range trade would also have had the scope to involve a wider range of Western goods than just slaves, since it would have made more worthwhile the transport of comparatively less high-value merchandise.

This downscaled reconstruction would have the virtue of not requiring us to imagine huge slave-raiding operations conducted by the Franks themselves, which would constitute a problematic assumption given the very thin written record for any such activity (and others have already pointed to this as the weakest point in McCormick's argument).³² McCormick's main kinds of written evidence include the Frankish-Venetian treaties already mentioned; other legislation limiting who could be traded legitimately; and some toll documents.³³ None of them, however, implies that the Franks were the main raiders: most of this evidence shows attempts to control and tax trade, but provides no clear evidence that they were profiting from it on any major scale (though this is not to deny, of course, the possibility of smaller-scale cross-border operations by Frankish lords with easy access to the frontier). Annals do document some captive taking, but even there, practically all of this anecdotal evidence corresponds to Charlemagne's early conquests, and essentially to the Saxon wars.³⁴ The Saxon wars were perhaps the last point in the history of the Carolingian Empire where such large numbers of captives were taken, and it is also the only military campaign for which it seems pretty clear that the captives were not traded, but resettled on landed estates in Francia along with their wives and children:³⁵ however potentially profitable the trade to the East, the Franks clearly looked to fulfil their own manpower needs first and foremost.

To link the slave trade with the Franks, McCormick mostly relied on a second category of evidence, namely Frankish writings *against* the slave trade—on the basis that they show that there was some sort of problem with it, and that the length of time over which they kept being repeated shows that the problem, whatever it was,

³¹ No significant commercial route bringing Slavic slaves into Muslim Spain can be documented until the tenth century: Manzano links it to the emergence of a new and stable centre of demand with the establishment of the Umayyad caliphate of Cordoba in 929 (Manzano, 'Circulation de biens et richesses', p. 150). Even then, in this case as in that of Venice-bound transit, there is no real reason to think that Western Europe would have constituted much more than a route of passage, without necessarily reaping much direct reward. Spanish Umayyad coins before the tenth century are only found within Muslim Spain, and do not circulate much outside; by the tenth century, Spain seems to have become integrated in a long-range trade network, though this is known chiefly through written sources. Prague is known from Arabic sources as a major trading centre for slaves, directed towards Muslim Spain, but coins are surprisingly lacking. On two separate slave-trading systems from Slavic regions, leading either to Spain or to the Middle East, see Jankowiak, 'Dirhams for slaves'.

³² Henning, 'Slavery or freedom?', pp. 272–3.

³³ Frankish-Venetian treaties: see n. 7 above. Toll-taking: 'Inquisitio de Theloneis Raffelstettensis' cc. 1, 6 (referring to Slavic merchants) and 9: *Capitularia* II, no. 253.

³⁴ McCormick, *Origins of the European Economy*, p. 746, and p. 747 on captives taken during Louis the Pious's campaigns in Brittany, as described in Ermold the Black's 'In honorem Hludovici' (though here one has to reckon with the poet's desire to present Louis as an epic hero in line with his father).

³⁵ As McCormick acknowledges: *Origins of the European Economy*, p. 748, n. 78; *Annales Laureshamenses*, s.a. 799, p. 38. On the Saxon wars as the last hurrah of Frankish expansion: Reuter, 'The end of Frankish military expansion'.

had stuck.³⁶ But ecclesiastical concern over the trade need not imply large numbers of captives. The worry that Christians might be sold to Muslims was already long-standing. Worry about selling *pagans* to Muslims, on the other hand, was certainly new, but it was only expressed once, in the council of Meaux-Paris of 845–846, which urged kings to ensure pagan slaves in transit through their kingdom should be sold only to Christians, not pagans, so as to give them a chance of salvation.³⁷ This does not indicate that Franks were the main beneficiaries of slave sales to the Muslims; if anything, it seems more probable that the bishops' request was just the sort of pious wish that people tend to make when they have little at stake. Frankish ecclesiastical writers might have felt all the freer to make such points if the Frankish kingdoms were not deeply engaged in the process as direct parties. Their comments would then fall into line with more general and conventional Carolingian claims to be leading Christian Europe towards salvation.

It seems likely, then, that the Franks possessed enough awareness of the trade to comment on it, but also a low enough stake in it to afford to be critical. Francia could still have functioned as an economic partner to slave-trading regions, and as a point of transit for the route to Venice, and later on to Spain. Franks may well have profited from the trade in indirect ways, certainly through taxes, and perhaps also by providing services (for instance through the production of eunuchs), without necessarily taking the lion's share of the profits. Non-Frankish sources on these regions are few and far between, but it should tell us something that Arab geographers from the tenth century, although they do discuss the slave trade, fail to identify the Franks as significant players.³⁸

Although Carolingian Francia tends to dominate accounts of European history in the eighth and ninth centuries (and overall, it has to be said, for pretty good reasons), it is important to remember that it was not the only player in town; it was just the best-documented one. Presumably an illicit internal slave trade persisted on an increasingly low level within Francia itself, and perhaps some people who had been kidnapped or taken during a military campaign did end up in Venice, and were then taken further into the Eastern Mediterranean; but the large-scale, international slave trade is more likely to have been passing through Francia, leaving only a modest proportion of its profits as it went, rather than operating as a springboard for its economy. Even this modest proportion could have resulted in quite significant amounts of cash for very little trouble, but this reconstruction nevertheless leaves Francia occupying a fairly marginal position to the economic operations of the slave trade, and the slave trade as a fairly marginal element in the Frankish economy.

³⁶ On forbidding the sale of Christians to pagans as a royal duty, see for instance Cathwulf's *Epistola ad Carolum*, p. 503; Smaragdus of St-Mihiel, *Via regia* c. 30, coll. 933–70—both written under the reign of Charlemagne.

³⁷ Council of Meaux and Paris, a. 845–846: MGH *Concilia* III, no. 11, c. 76, p. 124.

³⁸ Citing the writings of Ibn Hawqal, Ibn Fadlan, and Ibrahim b. Ya'qub, see Jankowiak, 'Dirhams for slaves'.

THE BRITISH ISLES

The British Isles present us with a very different context, but the development of a large-scale slave trade there presents some similar traits to that found in Eastern Europe. Slave raiding on a low level, as elsewhere in Europe, seems to have been a fact of life from our earliest records, and to have remained an important part of the elite male lifestyle longer than in Francia, no doubt because it was facilitated by a much more lasting and pronounced level of political fragmentation. As in the case of fifth- and sixth-century Francia, however, there is no evidence that this translated into a particularly developed or quantitatively significant slave-trading network—until, that is, Vikings came onto the scene, from the late eighth century until the eleventh (so at a time roughly coinciding with the development of the Slavic trade in response to Muslim demand, first in the Middle East and Africa, then also in Spain).³⁹ Once again, what drove slave raiding on a large scale was less the existence of conflict per se—ever-present in these areas, and probably often leading to slave taking, though not necessarily on any great scale—but the existence of market outlets capable of absorbing large numbers. This was the key Viking contribution to the trajectory of slave raiding and trading in the British Isles. The Vikings certainly did not invent slave trading in these regions, but they took it to an entirely new level.⁴⁰

As in the case of the Slavs, Vikings raided people from England, Wales, and Ireland (and presumably also Scotland, though the written record there is too scarce for this period to allow anything but conjecture). Some of the resulting slaves went to feed a domestic demand in Scandinavia, for household and farm work;⁴¹ the rest were exported further afield, perhaps indeed as far as the Muslim world. But as in the case of Eastern Europe, local populations did not remain exclusively victims for long. Poul Holm has shown that the existence of major external trading outlets provided by the Vikings also substantially changed the business of Irish-on-Irish slave taking in Ireland, involving increasingly large numbers of captives, starting in the late ninth century and intensifying in the eleventh (the same applies to Irish-on-Viking raiding, as is made clear from the sack of Limerick recorded in *Cogadh Gaedhil re Gallaib*).⁴² Different practices of exploitation (on which see Part II) made raided slaves more relevant to the domestic market in the British Isles than in ninth-century Francia, but that demand could presumably

³⁹ Frisians are certainly an earlier possibility; the numismatic evidence suggests that Frisia and England were closely linked commercially in the early eighth century (Naismith, 'The social significance of monetization', pp. 12–13); but the link between this and the slave trade is only really based on the story of Imma (see above, n. 5), and its scale impossible to gauge.

⁴⁰ Claims that Vikings were responsible for introducing slavery into Ireland as a significant concern in the first place have been more or less discarded: Boyle, 'Lest the lowliest be forgotten', p. 86.

⁴¹ Karras, *Slavery and Society in Medieval Scandinavia*; Valante, 'Castrating monks'. The prominence of Irish slaves in Icelandic sagas suggests there were enough of them to create a cultural stereotype: Kristjánsson, 'Ireland and the Irish in Icelandic tradition'.

⁴² Holm, 'The slave trade of Dublin'. On the sack of Limerick: Valante, 'Castrating monks', p. 177. See also Valante, *The Vikings in Ireland*, pp. 87–8. On Vikings in Irish literature, see Ní Mhaonaigh, 'Friend and foe', and Ó Corráin, 'The Vikings in Scotland and Ireland'.

be met through the lower-scale raiding typical of earlier centuries; it is difficult to explain the new ambitions of local raiders except as a reaction to the existence of Viking trading contacts. The same process of conversion from being victims of Viking raids to becoming slave trading partners has also been observed for Wales in the same period.⁴³

One substantial difference from the Slavic trade, happily, is that everywhere in the British Isles (except Scotland) the process is much better documented, since both raiders and victims were operating within a literate culture. Annals, however misleading, give us information we can only dream about for Eastern Europe; and they were not the only written texts commenting on the slave trade. In all regions of the British Isles, commentary on this topic was resolutely ecclesiastical in character. Some concerns, such as the sale of Christians to pagans, are present in our very earliest sources and never changed; but a distinct change of tone is palpable for late Anglo-Saxon England from the early eleventh century, in a way that did not happen for the 'Celtic fringe'. It is worth asking ourselves why.

Ireland, the best documented of the Celtic areas, shows broad continuity in the treatment of slave raiding and trading, and provides the most vivid individual stories for both pre-Viking and Viking phases, in particular with the story of Patrick for the fifth century, and the story of Findan for the ninth. The two texts have a good deal in common: both involve Christian saints who were kidnapped and enslaved by pagan raiders, then made a successful escape. A distinct change of setting and emphasis in the circumstantial detail is palpable when comparing the two: Patrick's story, as told by himself in his *Confession*, does not spend a great deal of time on his initial capture from his home in Britain by Irish raiders, and the sea journey he mentions is the one involved in his escape; he interpreted both his enslavement and his escape as manifestations of divine will, the first as a punishment visited on him for his sins, and the second as a sign of his divine mission.⁴⁴ The *Life* of Findan shares the interpretation of successful escape as depending on God's favour, but the hero there is completely blameless from the start, and has nothing to atone for.⁴⁵ Findan was captured by Vikings twice—once when sent by his parents to ransom his sister, and a second time when he was framed by local enemies of his family who called in Vikings specifically to this end. The story of his capture, of his subsequently changing hands between different owners, of his sea voyage, and of his final escape by hiding on one of the Orkney islands and then swimming to shore (aided by his clothing, made stiff and buoyant through divine intervention) constitutes one of the most detailed and gripping narratives of the early medieval slave trade. Following his escape, he lived for twenty years as a hermit at the abbey of Rheinau in modern-day Switzerland.

In all major ways, however, there is no substantial difference between the two texts in either attitude or message: both deal with the problem of Christians falling

⁴³ Bromberg, 'Wales and the medieval slave trade'. On the capture of two thousand slaves by 'Black gentiles' in 987, later ransomed by Maredudd: Davies, *Wales in the Early Middle Ages*, p. 67.

⁴⁴ Patrick, 'Confessio'. McLuhan, '*Ministerium servitutis meae*'; Flechner, 'Patrick's reasons for leaving Britain'.

⁴⁵ *Vita Findani*.

into the hands of pagans, and offer the hope of release through God's help even in these circumstances of unique vulnerability. Patrick considered the raiding and selling of Christians as a fundamentally religious problem, even when the raiders themselves were Christians: in his open letter upbraiding the soldiers of Coroticus, a British, presumably Christian king who had carried off Patrick's catechumens, he describes Coroticus as siding with pagans and apostates through his actions, and appeals to his soldiers' piety as a way of turning them against him (in Muirchú's seventh-century *Life* of Patrick, at least, Coroticus got his comeuppance: he was punished by being turned into a little fox in front of all his men, ran away, and was never seen again).⁴⁶

Sources from Anglo-Saxon England of course also discussed concerns of this kind throughout our period, but from the early eleventh century onwards they took on a different additional flavour, in that their discussion no longer focused exclusively on who and how deserving slave raiding victims were, and began to come much closer to something like a blanket rejection of the slave trade in general (not, importantly, of slavery in and of itself). The key figures in this are the two Wulfstans: Wulfstan of York and Wulfstan of Worcester. In the first decade of the eleventh century Wulfstan of York wrote a homily known as the *Sermon of the Wolf to the English*, in which he described the slave trade overseas in horrific terms, as in the following, much-quoted extract:

And it is terrible to know what too many do often, those who for a while carry out a miserable deed, who contribute together and buy a woman as a joint purchase between them and practice foul sin with that one woman, one after another, and each after the other like dogs that care not about filth, and then for a price they sell a creature of God—His own purchase that He bought at a great cost—into the power of enemies.⁴⁷

The language is far more emotional, but in terms of overall thrust, this is not unlike the misgivings over the slave trade voiced by our Frankish bishops at the council of Meaux-Paris a century and half earlier. As in McCormick's argument for Francia, one could take such criticisms of slave trading as a sign that it was controversial because it was a particularly prevalent practice, but, despite more plentiful sources, there is no real sign that English slave taking intensified over the ninth and tenth centuries in order to meet Viking demand, in the way that can be seen in Ireland and Wales.⁴⁸ Wulfstan complained about 'poor people' being sold across the sea,

⁴⁶ Patrick, 'Letter to the Soldiers of Coroticus'; Muirchú, *Vita Patricii*, I, 29.

⁴⁷ Wulfstan, *Sermo Lupi ad Anglos* (cited in translation by Whitelock, *English Historical Documents* I, p. 931); see Pelteret, *Slavery in Early Mediaeval England*, pp. 95–101. On the political background, see Wilcox, 'Wulfstan's *Sermo Lupi*', and for the suggestion that the *Sermo Lupi* was written not in 1014 but during the raids of Thorkell's army in 1009–12, Keynes, 'An abbot, an archbishop, and the viking raids of 1006–7 and 1009–12'. See also Lionarons, *The Homiletic Writings of Archbishop Wulfstan*, pp. 147–71.

⁴⁸ David Pelteret and Matthew Strickland both see Anglo-Saxon slave taking as increasing in the eleventh century, but the examples are rather few and far between, and, unlike for Celtic regions, not clearly linked to trade as opposed to ransom: Pelteret, 'Slave raiding and slave trading'; Strickland, 'Slaughter, slavery or ransom', especially at p. 47. Similar examples, linked with small-scale, independent raiding activity on the part of lords in frontier regions, and not obviously feeding into trade, can be found well into the Anglo-Norman era: e.g. Orderic Vitalis, *Historia ecclesiastica* VIII, 3, p. 138, on Robert of Rhuddlan.

but this does not mean that Anglo-Saxons engaged in widespread raiding of their own people to sell to Vikings.⁴⁹ Part of the reason must be the political unification of England, itself largely the outcome of the Viking presence, which created an ever-diminishing scope for cross-border raiding in comparison with the many political divisions of Wales and Ireland.

The ‘poor people’ mentioned by Wulfstan clearly refer to people who had been raided, but whose families did not have sufficient means to ransom them. By implication, he therefore seems to have been assuming that any captives who were not poor *would* be ransomed. This expectation might suggest another possible area of difference in experiences between Celtic regions and Anglo-Saxon England. Practices of ransoming obviously created much greater scope for differentiation between ‘haves’ and ‘have-nots’ than systematic raids followed by sale. Ransoming could only develop as a routine practice where the families of raided victims had enough resources to make it a good alternative to transport and sale. The redemption of captives, unlike trading, involved no long-distance transport, and so involved only minimal transaction costs for the raiders; to this extent it would have presented clear advantages for them, but it would only have been worthwhile if their human chattel could not be sold for considerably more elsewhere.

Ransoming seems to have been a possibility throughout the early middle ages in the British Isles, both before and during the Viking era. The best English example for the pre-Viking period comes from a letter from Brihtwold, the archbishop of Canterbury, to Forthhere, the bishop of Sherborne in the early eighth century, arranging for the payment of an enormous ransom of 300 *solidi* for the recovery of a captive girl on behalf of her family.⁵⁰ How far ransoming might have been accessible to anyone except members of the very highest elite is open to doubt. Back in the early fifth century, Patrick’s father had been a decurion, but evidently no attempt was made to try to ransom him from his captors; instead, he was put to work like everyone else. Patrick’s own letter to the soldiers of Coroticus explicitly contrasted Coroticus’s raiding practices with those of the Franks: the Franks, he said, allowed the redemption of their captives by churchmen.⁵¹ It is worth noting, though, that Patrick did not himself offer to buy back the Christian captives from his flock, presumably because he did not have the resources available to continental churchmen.

In the pre-Viking period there may not have been much difference between ransoming practices throughout the British Isles. Adomnán of Iona, for instance, apparently went twice to Northumbria, in 687 and 689, to redeem Irish captives.⁵² These captives had been taken in the course of conflict between what were still two fairly economically underdeveloped polities. Later on, by contrast, the higher

⁴⁹ The exception may be Cornwall, a frontier area, where the expansion of Wessex may have led to enslavement. Pelteret, ‘Slave raiding and slave trading’, p. 107; see also Padel, *Slavery in Saxon Cornwall*.

⁵⁰ *S. Bonifatii et Lulli Epistolae* no. 7 (Brihtwold to Forthhere): *Epistolae Merowingici et Karolini Aevi*, pp. 247–8.

⁵¹ Patrick, ‘Letter to the Soldiers of Coroticus’, c. 14.

⁵² *Chronicle of Ireland*, s.a. 687, 689.

potential value of captives on the Viking trading network are likely to have created a greater degree of asymmetry. Conflicts between two economically comparable regions, whether at a high or a low level of economic development, were more likely to lead to mutual ransoming on a level ground. If, however, the two parties had a highly differential access to economic resources, it is unlikely that captives raided from an economically underdeveloped region could be ransomed as a matter of routine, since their families and friends had less chance of being able to compete with market outlets. The development of ransoming practices on any significant scale in these circumstances required a fairly widespread access to money (or other forms of currency) and a greater degree of affluence among the wider population. By the Viking period, ransoming was clearly a routine strategy for raiders, but because, in view of larger available market outlets, the prospect for the sale of slaves was also better than before, the prices are also likely to have been steep. To the extent that England was more developed economically than Celtic regions, ransoming may have been relatively more common in the Viking era there than in Ireland. Ransoming, then, could be either incidental or the norm, depending on the relative economic development of raiders and raided: in England, it seems to have become the norm by the early eleventh century—sufficiently so as to lead Wulfstan to express outrage at the fact that ‘the poor’ had no access to it.

The end point of this change in cultural attitudes in England came with the second Wulfstan (d. 1095), bishop of Worcester. This Wulfstan is well known for his campaigning against the slave trade, and he was credited by his hagiographers with having shut down the Bristol slave trade to Ireland. Only the Latin version of his *Life* survives, written by William of Malmesbury some time after 1126.⁵³ William described the slave trade in dramatic terms:

... they would buy up men from all over England and sell them off to Ireland in hope of a profit, and put up for sale maidservants after toying with them in bed and making them pregnant. You would have groaned to see the files of the wretches roped together, young persons of both sexes, whose youth and respectable appearance would have aroused the pity of barbarians, being put up for sale every day. An accursed deed, and a crying shame, that men devoid of emotions that even beasts feel should condemn to slavery their own relations and even their flesh and blood!

By the time William was writing, the slave trade in England was evidently nothing but a horrific memory, and a black mark against pre-Norman English culture.⁵⁴ Bristol in Wulfstan’s day had been one of the last outposts because it had particularly direct contact with Ireland; visitors from elsewhere in England might well then have been shocked, in a way they would not have been if they had come from Ireland or Wales. This allowed the profound change in cultural attitudes which

⁵³ William of Malmesbury, *Vita Wulfstani* II, 19.2 on the Irish as barbarians, and 20 for the shutdown of the slave trade, pp. 98–103.

⁵⁴ William repeated the section on the treatment on slave women in *Gesta regum Anglorum* III, c. 245, when explaining how low the English had sunk by the time of the arrival of the Normans. Anselm of Canterbury and the bishops at the council of Westminster had called for an end to the slave trade in 1102: William of Malmesbury, *Gesta pontificum Anglorum* I, 64.5, at pp. 192–3.

eventually reached its culmination in William of Malmesbury's account. The effect was to allow English writers to exploit the slave trade, among other things, in their bid to portray the Irish as wholly alien and barbaric, even though the difference might not have been all that marked until only just over a century before.⁵⁵ By then, the problem was no longer the selling of Christians to pagans, since Ireland had not been pagan for centuries; the position had shifted to considering only 'barbarians' and cultural outsiders as likely perpetrators of the slave trade, as well as constituting its only legitimate victims.

SOUTHERN EUROPE

The experience of Southern Europe was very different from that of the North. Italy and Spain were profoundly affected by the Muslim demand for slaves, but their geographical position made them much more vulnerable to direct Muslim raids, from Sicily and al-Andalus respectively. With a few exceptions (such as Venice), Christian polities in these regions were therefore not well placed to derive any kind of economic boost out of the Muslim demand for slaves; rather the opposite.

The Christian kingdoms in Northern Spain were highly vulnerable to Muslim raids across the frontier. The reason why Muslim Spain took so long to appear on the long-range slave trading scene may well be that it could easily supply itself through raiding and piracy alone (as well as, perhaps, through less detectable short-range trade with the Northern Christian kingdoms).⁵⁶ Andalusian raids certainly seem to have increased in the later ninth century, and included Southern Francia and Italy among their targets.⁵⁷ On the other hand, mentions of Muslim slaves held in Christian kingdoms, though occasionally made in tenth-century documents, remain exceptional until the early eleventh century and the beginnings of *reconquista*.⁵⁸ Even then, as Stephen Bensch has shown in an important article, Muslims held in Christian hands in the early days of the *reconquista* remained rather thin on the ground, and were valued as a comparatively rare badge of victory rather than as a commodity. Greater military success against Muslim principalities, along with the increasing economic development of Christian territories, did, however, re-establish a greater degree of balance in the relationship between the two regions, allowing (in a similar development to the one we saw in late

⁵⁵ Gerald of Wales on Ireland as a land of slave-takers getting their rightful comeuppance through English domination: *Expugnatio Hibernica* 18.5–17, at pp. 69–71. On Irish barbarity and English civilization in the twelfth century, see Bartlett, 'The face of the barbarian'; Gillingham, 'Civilising the English?'; Gillingham, 'The beginnings of English imperialism'. Something similar is found in English accounts of Scottish slaving practices at the time of the Battle of the Standard: Richard of Hexham, *Chronicle*, at pp. 152, 156–7, 170–1.

⁵⁶ On the dates for the slave trade to al-Andalus, see above, n. 31.

⁵⁷ Guichard, 'Les débuts de la piraterie andalouse'. For examples earlier on in the ninth century: *Annales Regni Francorum*, s.a. 807 (see above, n. 4); s.a. 813, p. 139 (Count Irmingar captures eight ships carrying more than five hundred prisoners who had been raided in Corsica and were being taken to Spain). For further source references, see Talbi, 'Law and economy in Ifriqiya'.

⁵⁸ Bensch, 'From prizes of war to domestic merchandise', pp. 67 and 69–71. On Muslim slaves in tenth-century Spain, see Chapter 4, pp. 148–52.

Anglo-Saxon England with the Vikings) the practice of ransoming to develop on a much more frequent basis. By the twelfth century the process had become institutionalized to a high degree, and special officials were put in charge of it.⁵⁹

The Christian advance also led to the drawing of a distinction between Muslim captives taken during military operations and Muslims who simply happened to live in newly conquered territories. Large-scale enslavement of conquered populations did happen, but it was not the norm, though Mudejars in Christian territories remained throughout the middle ages much more enslaveable than Christians, whether for crimes or for debt.⁶⁰ Treaties made between Christian and Muslim powers also limited the development of border raiding, though small-scale kidnapping evidently did take place. Contracts of sale from this time onwards had to make clear that the slave had not been taken in contravention of the royal peace, whether through abduction of Mudejar subjects or unsanctioned military activity against Muslim neighbours: slaves had to be declared to have been taken *de bona guerra*.⁶¹ This limited the degree to which the Christian *reconquista* could lead to the development of a very large-scale commercial trade in Muslim slaves drawn from the peninsula itself. Large-scale commercial exchange did develop, but less through territorial warfare than through piracy. Bensch argues convincingly that this more commercial attitude towards Muslim captives did not develop until the thirteenth century, paving the way for Spanish, and especially Catalan, traders to take advantage of the emerging take-off of chattel slavery in Southern Europe, when the opening of new trade routes in the wake of crusading armies made new sources of slaves available.⁶²

The transition from raided population to slave traders has not been as thoroughly studied for Italy in the central middle ages, but there is enough to suggest

⁵⁹ Bensch, 'From prizes of war to domestic merchandise', p. 71: 'Because the acquisition of slaves came as a result of sporadic raiding between two comparably equipped societies in tense competition for hegemony in the Iberian peninsula, both Christian and Muslim prisoners could hope to recover their social identity through exchange, before the market severed the slave's previous attachments and facilitated integration into the master's world.' Ransoming can be seen developing in earnest in the *fueros* of the twelfth century: Brodman, 'Municipal ransoming law'; see also Gómez-Rivas, 'The ransom industry and the expectation of refuge'. For the later middle ages: Koningsveld, 'Muslim slaves and captives'; Meyerson, 'Slavery and solidarity'. For a vivid example from 1118 of a man and his family ransomed from captivity, see Lacarra, *Documentos* no. 53, pp. 66–7. Earlier arrangements seem much more ad hoc, though captives feature as a standard good cause for which to provide property for the redemption of one's soul. In one complicated example from 961, a man sold to a certain Iquila Ibn Nezeron the lifetime use of some property for the price of one Christian captive, and at the death of the buyer the property was to revert to a monastery: *Portugaliae Monumenta Historica* no. 85, p. 54.

⁶⁰ Bensch, 'From prizes of war to domestic merchandise', p. 68; Catlos, *The Victors and the Vanquished*, pp. 221–9; for a later period, Meyerson, 'Slavery and the social order'.

⁶¹ Bensch, 'From prizes of war to domestic merchandise', p. 76; Burns, 'Piracy as an Islamic-Christian interface'. On *de bona guerra* in fifteenth-century Valencia: Blumenthal, *Enemies and Familiars*, pp. 9–45.

⁶² Bensch, 'From prizes of war to domestic merchandise', pp. 74–5: in the eleventh and twelfth centuries, 'the economic mechanisms driving this system and providing the background for slavery still depended upon war, tribute, and exchange, not upon markets... [It was only] during the late twelfth and the early thirteenth century, a period of rapid economic growth, [that] commercial exchange rather than capture and ransoming molded the contours of slavery in the Crown of Aragon.' See also Constable, 'Muslim Spain and Mediterranean slavery'.

that the trajectory there was not all that dissimilar from Spain. Some Italians may have profited from the slave trade to the Muslim world from quite early on, and a few cities managed to turn themselves into successful middlemen; the prime example here is Venice, which clearly did extremely well out of it.⁶³ For Italy we also have to reckon with a demand for slaves from the Byzantine Empire, which retained an important foothold in the South (this demand may not have been quantitatively as significant, however, since the Byzantine Empire seems to have got most of its slaves from its own Slavic frontier and the Balkans, which were much more easily accessible to it than they were to the Muslim world).⁶⁴ Venetian merchants can be found buying slaves in Rome around 748 with the intention of selling them to ‘the pagan people in Africa’; Pope Zacharias intervened in outrage and freed the slaves, though he did reimburse the traders.⁶⁵ Overall, though, one finds very little sign in Italian sources of any concerted attempt to combat the selling of Christians to the Muslim world. Perhaps it was also because some Italians at least were doing rather well out of selling other Italians.⁶⁶ The political fragmentation of the peninsula would have created conditions favourable to this: as in other politically fragmented regions, such as Ireland and Wales (and perhaps also in Spain between the different Christian kingdoms), Christian-on-Christian enslavement seems to have carried on for longer than in Francia. Surviving documents suggest that the internal, Italian demand for purchased slaves was on a small scale,⁶⁷ but the practice could have been harnessed to feed Muslim and Byzantine demand. Pope Hadrian I, in a letter to Charlemagne, had to defend himself strenuously against accusations that ‘his’ Romans had been engaged in selling Christian slaves to the Saracens; clearly the idea that the Pope himself might be involved in this sort of activity was far from unthinkable.⁶⁸

Judging from both Latin and Greek Italian sources, such as the *Chronicle* of Erchampert of Monte Cassino or the *Life* of Saint Elias the Younger, who was kidnapped by Muslim raiders as a child, the general perception of the impact of the Muslim demand for slaves was dominated by the fear and horror of devastating raids.⁶⁹ Italy, however, never seems to have developed a cultural distaste for the slave trade in general in a way comparable to Francia or later Anglo-Saxon England, where the slave trade became increasingly seen chiefly as something that outsiders

⁶³ McCormick, *Origins of the European Economy*, pp. 770–1.

⁶⁴ Rotman, *Les esclaves et l’esclavage*, p. 97. On Muslim demand from Sicily, see Metcalfe, *The Muslims of Medieval Italy*, p. 14.

⁶⁵ *Liber pontificalis* 93.22; for an English translation: Davis, *Lives of the Eighth-Century Popes*, p. 46.

⁶⁶ Verlinden, *L’esclavage dans l’Europe médiévale* II, p. 114 on Amalfi; see also Skinner, *Medieval Amalfi*, p. 33, n. 8; D’Alessandro, ‘Servi e liberi’, pp. 298–9.

⁶⁷ Feller, ‘Sulla libertà personale’, pp. 194–6; see Chapter 4, pp. 152–4.

⁶⁸ *Codex Carolinus* no. 59, p. 585. Hadrian in turn used the accusation of trading slaves to pagans to make slurs against his own enemies Eleutherius and Gregory: no. 75, p. 606. McCormick, *Origins of the European Economy*, p. 749.

⁶⁹ *Vita di Sant’Elia il Giovane* cc. 6–9; Erchampert of Monte Cassino, *Historia Langobardorum Beneventanorum*, c. 51, p. 256 on people being drained from Italy. On large numbers of slaves taken from Tarento to Africa, see Halevi, ‘Bernard, explorer of the Muslim lake’, pp. 35–6. By the ninth century Arab raiders had also begun to engage in the ransoming business in Italy, which is probably indicative of economic growth in the peninsula: McCormick, *Origins of the European Economy*, p. 769.

did to other outsiders. In Norman Southern Italy, notably, the 'new wave' of the slave trade picked up as early as the second half of the eleventh century, tapping into some old routes and sources (for Slavs), some local ones (Muslims, Greeks), as well as some new ones (Bulgars).⁷⁰ The key difference from the early middle ages may simply have been that traded slaves remained on Italian soil in greater numbers than before. As in Spain, there was certainly a cultural shift over these centuries, but it was a fundamentally different one from that found in the 'core' of Northern Europe: the direct confrontation with the Muslim world gave the political dimension of slave taking a powerful additional cultural significance, arranged along a specifically religious divide. The abatement of the threat from Muslim raiders by the eleventh and twelfth century did not lessen the relevance of the slave trade either in Italy or in Spain: rather, it gave it different victims, in the form of non-Christians, and, increasingly, non-Europeans.⁷¹

CONCLUSION

The above discussion has compared three groups of regions with very different trajectories: the traditional 'core' areas of Northern Europe (Francia and Anglo-Saxon England); the Northern 'periphery' (the Western Celtic regions, Scandinavia and Eastern Europe); and Southern Europe (Italy and Spain).

In post-Roman Europe, political fragmentation was generally the rule, and made frequent, low-level raids and slaving expeditions viable. What it did not do in and of itself was create the conditions for the development of large-scale trade; for this, opportunity for sale was as important as opportunity for raiding. These outlets were provided only in the late eighth to eleventh centuries through the growth of a massive demand for slaves in the Muslim world, though not all Muslim regions fed this demand in the same ways or at the same time. For Italy and Slavic areas, the Byzantine Empire constituted another, less quantitatively significant market.

One might assume that the Western European polities that had reached the highest levels of political organization and geographical reach, such as the Frankish kingdoms, would have been the best placed to become privileged trading partners with the Muslim world, but, as I have argued, there is little evidence that this in fact happened. Instead, the picture, rather paradoxically, seems to be one where the less developed Northern polities situated on the periphery (or rather, their raiding-and-trading elites) were the ones who managed to take the fullest advantage of this new market outlet for slaves, while the big beasts of the era did not derive as much benefit from it, except through taxes on the transit routes that crossed their territory.

⁷⁰ Panero, *Schiavi, servi e villani*, p. 301, with examples from documentary sources at p. 329, n. 196. See also Martin, 'L'esclavage en Pouille'.

⁷¹ For Muslim slaves, see Catlos, *Muslims of Medieval Latin Christendom*, pp. 228–80. On the early Genoese evidence, see Haverkamp, 'Zur Sklaverei in Genoa'; Haverkamp, 'Die Erneuerung der Sklaverei'.

The elites of less developed polities situated in very politically fragmented regions were more able to take advantage of the newly opened, large-scale trading networks created by the Vikings, both in the British Isles and in Eastern Europe, largely because raiding already constituted an important and normal form of political behaviour for them.⁷² The 'Viking effect' there could tap into already routine political practices, and turn them into something much larger-scale, and with a substantially greater pay-off—to the point of adding crucially to the scope for state-building in these peripheral regions.

Of course, the Franks, Burgundians, Lombards, and so on had engaged in the very same forms of raiding as part of their own elite political behaviour in the fifth to seventh centuries. The difference was that, in contrast to the late eighth century onwards, there was not much money in it at that stage. What made the experience of 'core' and 'periphery' different was essentially down to timing: the periphery was still engaged in frequent raiding ventures at the time when Vikings and Muslims came onto the scene as major players in a large-scale slave trade, which could be fed by harnessing these existing practices.

By contrast, larger, more centralized polities like the Carolingian Empire in the ninth century, and later Anglo-Saxon England in the tenth and eleventh, had turned to significantly different forms of political behaviour by the time Vikings or Muslims came onto the scene ready to trade in slaves. Although Frankish elites were not above raiding, their main resources came from elsewhere. For a start, in these more economically developed areas, elites had greater possibilities to derive substantial resources from the exploitation of land through tenants, free or unfree. Selling their own people away would have been less likely to appeal to them, since it would have resulted in a loss of manpower, which lords already had to compete for quite strenuously in any case. The only win-win scenario for them would therefore have involved selling people whom they had raided from elsewhere. The geographical expansion of the Frankish kingdoms, however, meant that raidable people were now situated really quite far away, at the edges of the empire. Although campaigns waged by Carolingian kings in Eastern Europe might have provided opportunities to raid, it would have been hard to translate this into regular behaviour; by the ninth century such campaigns had become far too expensive and logistically demanding to warrant engaging in them just for the purpose of slave taking. In any case they stopped very quickly, still under the reign of Charlemagne. No doubt individual lords on the Eastern frontier engaged in raiding on their own account, but without further resources backing them there, is no reason to imagine that they would have been able to achieve anything large-scale. And of course this type of activity was no help at all to those lords situated in West Francia or Lotharingia. All this is likely to have resulted in a driving of slave raiding and slave trading towards 'periphery' zones in the North.

⁷² On slave taking in Britain and Ireland as a cultural and political practice, see Wyatt, *Slaves and Warriors*, with a different explanation of change from the one proposed here (emphasizing instead cultural change brought about by the rise of knightly values and ecclesiastical reform as a cause of the end of slave raiding—which begs the question of why neither seems to have had the same effect in Southern Europe); see also Wyatt, 'Slavery, power and cultural identity'.

I should make clear at this point that I am not trying to whitewash the record of 'core' North-Western areas: although I suspect that they were involved in the slave trade in a much more limited way than McCormick suggests, they were limited by logistics rather than virtue. They had plenty of other ways open to them of treating people extremely badly (some of which we will meet in the next chapter), and on the whole it remains true to say that 'to the rest of Europe, it was the Franks who were the Vikings'.⁷³ It is all the more striking that a polity not known for its friendly disposition towards conquered peoples should have developed, judging by writings from this period, a relatively critical attitude towards the slave trade to the Muslim world. This, I have argued, is likely to be a result of awareness of this trade, coupled with a relative disengagement from its main profits. This new sense of distaste was clearly highly reversible when profit became possible again, as is clear from the horrific descriptions of twelfth- and thirteenth-century slave-taking operations in the Baltic regions, which John Gillingham has discussed so well.⁷⁴

The prime movers in the eighth- to eleventh-century slave trade, then, were the least developed polities of North-Western Europe, while more developed ones were not in a position to take as much advantage of it. It may be not that surprising after all, then, that the latter started expressing more qualms about slave trading around the same time, for instance by offering negative judgements on the slaving practices of the Irish and Scots in England; in Francia, it was Jews that mainly came in for criticism. The difficulty of fitting in cross-border slave operations on a large scale for the larger polities probably contributed to a sense that *both* legitimately enslaveable populations *and* those who enslaved them tended to belong to different cultures, situated far away. At any rate, it seems to have given new wind to the old prohibition on enslaving co-religionists. Arguments to that effect were made throughout the period, and were nothing new; but they only started to get a wider purchase when a greater level of coincidence came to be established between religious difference and a wider sense of cultural difference in relation to less politically and economically developed regions. It was only then that criticism of the trade in Christians progressed beyond a minority view held essentially by churchmen and other religious professionals. From the perspective of 'core' Western areas, then, the disengagement from the slave trade increasingly turned all the parties involved in it, both enslavers and enslaved, into caricatures and symbols of barbarity. One of the best examples of this is Warner of Rouen's eleventh-century poem *Moriuh*, about an Irish poet taken captive by Vikings, which describes both the Viking slave-raiders and their Irish victim in equally degrading and animalistic terms.⁷⁵

Southern Europe, by contrast, in particular as a result of its much more complex and difficult, because much closer, relationship with the Muslim world, developed

⁷³ Reuter, 'Plunder and tribute', p. 247.

⁷⁴ Gillingham, 'Christian warriors and the enslavement of fellow Christians'; Gillingham, 'Women, children and the profits of war'; Gillingham, 'Hammering the heathen'.

⁷⁵ Warner treats him as an object of complete ridicule, showing that the sense that the risk of enslavement no longer really applied to 'civilized' people did not translate into particularly greater compassion towards those who were still potential victims of it: Warner of Rouen, *Moriuh*, especially lines 57–94, 143–88, 269–332.

a substantially different understanding of the concept of the enslaveable outsider, not, as in the North, as corresponding to wider, geographically bounded cultures, but as applicable to particular individuals, in particular through religious affiliation. The fact that Spain and Italy had much more mixed and multicultural populations led to very different cultural strategies of distinction there. This could go some way towards explaining why the South eventually re-engaged with a large-scale slave trade in the later middle ages, when the North did not. The North, as it became more culturally unified, eventually ran out of the people it could define as outsiders, with the exception of residual pockets of paganism in the Baltic regions. In the South, the more individualized basis for classification as either insider or outsider laid the ground, culturally speaking, for participation in a renewed, cross-Mediterranean slave trade in Muslims, followed, later on still, by enslaved Tartars, Russians, and black Africans brought back to Mediterranean shores by Catalan, Genoese, Venetian, and Portuguese traders.⁷⁶

This emphasis on outsiders as the only legitimate targets of the slave trade had clear consequences for the way in which traded slaves came to be identified in the terminology. The central middle ages saw a much greater tendency everywhere to start referring to traded slaves (as opposed to the unfree in general) through indications of their ethnicity—no doubt partly as a way of confirming, or at least making the claim, that people labelled in this manner constituted legitimate targets for sale. *Saracenus*—a only became normal in Spanish documents from the eleventh century onwards, and more varied ethnic descriptors developed in Italy from the twelfth century in Genoese documents.⁷⁷ In a few extreme cases, there was even a tendency for ethnic terms to become synonyms for *any* traded slave, regardless of ethnic origin. The most famous case of this is *sclavus*, originally meaning ‘Slav’, but gradually extended to mean ‘slave’, and indeed providing the Latin root for the word in most Western European languages (the shift happened in Arabic as well around the tenth century, with *saqaliba* ‘Slav’ turning into ‘slave’ or ‘eunuch’ in general).⁷⁸ *Wealh* (‘Welsh’) shows a similar semantic drift in Old English: although the term appears in the earliest text from Wessex, the code of Ine, where it clearly already denoted an inferior category of person, at that time it still really did mean ‘Welsh’, or more generally ‘foreigner’; it came to mean ‘slave’ during the tenth century.⁷⁹ This specialization of the meaning of ethnic terms clearly reflects the step-change in the volume of slave trading that seems to have

⁷⁶ The classic article is Origo, ‘The domestic enemy’; see also *Mélanges de l’Ecole Française de Rome: Moyen Age* 112:2 (2000); Heers, *Esclaves et domestiques*; Bresc, ‘L’esclave dans le monde méditerranéen’; Blumenthal, *Enemies and Familiars*; Fynn-Paul, ‘Tartars in Spain’; Guillén and Trabelsi, *Les esclaves en Méditerranée*; Arbel, ‘Slave trade and slave labor in Frankish Cyprus (1191–1571)’; McKee, ‘Domestic slavery in Renaissance Italy’; Stuard, ‘To town to serve’; Winer, *Women, Wealth, and Community in Perpignan*; Wolf, ‘The “Moors” of West Africa’; Epstein, *Speaking of Slavery*.

⁷⁷ Epstein, *Speaking of Slavery*.

⁷⁸ Verlinden, ‘L’origine de *sclavus* = *esclave*’, placing the slippage from ethnic terminology to ‘chattel slave’ in Germany in the tenth and eleventh centuries—an argument I find unconvincing on several counts (see Chapter 4, pp. 165–7). For a discussion of *saqaliba* with a useful list of sources, see *Encyclopaedia of Islam* (2nd edn.) VIII, fasc. 143–4, pp. 872–8, s.a. ‘al-Saqaliba’.

⁷⁹ Pelteret, ‘Slave raiding and slave trading’, p. 107; Pelteret, *Slavery in Early Mediaeval England*, pp. 319–22; Ward-Perkins, ‘Why did the Anglo-Saxons not become more British?’, pp. 530–1.

occurred during the tenth century. The preceding discussion, however, suggests that this did not necessarily mean that all the societies that were using these words were themselves extensively engaged in the trading of slaves raided from these ethnic groups. They merely had to be the most visible and symbolically meaningful kinds of traded slaves from the point of view of the people who were referring to them. Either way, this new vocabulary is revealing of an increasing sense of distinction between the kind of slavery that involved being bought and sold on the one hand, and other practices of unfreedom on the other: although no formal legal difference was established between these different types before the thirteenth century, there was clearly a sense much earlier that the putative unity of the legal category required refinement, and terminology anticipated the legal distinction that was to come by at least two centuries. I will turn to these other forms of unfreedom, this time involving cultural insiders, in the next chapter.

2

Self-Sale, Debt Slavery, and Penal Enslavement

Capture and sale constituted the most disruptive imaginable form of enslavement, but there were many other ways of entering an unfree condition. These involved the recruitment of insiders: people who, prior to their enslavement, had been integrated in the same community in which they continued to reside as unfree persons. This method of entry into unfreedom covered a much wider and more varied spectrum, both in terms of process (how and why people became unfree) and consequences (what this change in their condition meant). Sometimes it was clearly coercive and disruptive to people's lives to an extent comparable to violent capture, and its victims had just as little say in its consequences. In other cases, however, the attribution of unfree status could involve negotiation between enslaver and enslaved to a surprising extent. Self-sale or self-gift, when people either sold themselves for a price or simply gave themselves to more powerful people, happened in the evident expectation of a trade-off. What this trade-off might involve could go from absolutely minimal (being provided with food in a time of famine, for instance) to actually rather substantial (when it was associated with a grant of land to cultivate, and a more or less large cut of the produce generated from it). The outcomes of these negotiations, and therefore the meaning unfreedom would have, depended on how much each party had to bring to the table in the first place. Although the attribution of unfree status could play a very powerful symbolic role in defining the terms of a new relationship, the precise consequences of unfreedom in each case were determined less on this legal basis than on the basis of the two parties' pre-existing relative socio-economic positions. I will look at the three main forms of entry into unfreedom for insiders, which are best understood as operating on a continuum: penal enslavement, debt slavery, and self-sale.

ENTRY INTO UNFREEDOM IN ROMAN (AND BYZANTINE) LAW

Both self-sale and penal enslavement had already existed under Rome, but Roman and early medieval incarnations of these practices differed strongly in both process and purpose. Justinian's *Institutes*, the classic law textbook compiled in the sixth century, is a good place to start for ways of entering unfreedom under Roman law. Its discussion of legal statuses appears near the beginning of the text: 'Enslavement

can happen under the law of all peoples, by capture; or under the law of the state, as when a free man over twenty allows himself to be sold to share the price. The legal condition of all slaves is the same.¹

This passage looks straightforward enough, but actually its presentation of self-sales as essentially unproblematic was a significant simplification. The general stance of Roman law before Justinian had been that freedom was too valuable to have a price put on it: 'a free person is not to be valued at any price' (*homo enim liber nullo pretio aestimatur*).² In principle, self-sales were not accepted as legitimate transactions, and were treated as fraud.³ Giving up freedom (the guarantee of which played no small part in the jurists' conception of what Roman law was for) was seen as a perverse decision, and the people who did it were treated in very judgemental terms by Roman jurists and legislators.⁴ The sense that self-sale flew in the face of civic values, however, did not translate into any particularly strong commitment on the part of Roman emperors to stamp it out in practice: this much is clear from the fact that if discovered, the punishment of self-sellers was that they should remain slaves from then on, since their actions showed they did not 'deserve' to be free—effectively sealing the deal and protecting buyers. By referring to self-sale as a standard way of entering unfreedom, Justinian was cutting through the twists and turns of earlier legislation, and simply acknowledging the end result.⁵

This mismatch between discourse and social practice is echoed in the Byzantine world, where laws show the same distaste for self-sale and self-sellers.⁶ In the late ninth century, Leo VI made it illegal for people to sell themselves, making much of the fact that previous laws had allowed this practice and that it was happening all the time.⁷ Leo makes the very Kantian observation that the man who wishes to sell himself is 'deprived of reason' (*dustuchôn eis phrenas*)—literally 'unfortunate as to the mind'. But whereas earlier emperors would have condemned such a man to remain unfree as a punishment for this weakness of character, thereby *de facto* recognizing the self-sale, Leo condemned both buyer and seller to a flogging, and the

¹ Justinian, *Institutes* I.3.4, p. 39. ² *Pauli Sententiae* V.1.1.

³ Buckland, *The Roman Law of Slavery*, pp. 427–33; Melluso, *La schiavitù nell'età giustiniana*, pp. 27–9.

⁴ E.g. Justinian, *Digest* 40.13.4.

⁵ Developing this argument for self-sales in the Roman era: Ramin and Veyne, 'Droit romain et société'. For additional comments, Rio, 'Self-sale', pp. 664–5. For the late Roman Empire: Harper, *Slavery in the Late Roman World*, p. 79.

⁶ In some ways a sense of legal continuity between the Roman and Byzantine Empires is inevitable, since the *Digest* dominates the legal landscape of both: Justinian, *Digest* 1.5.4 and *Institutes* I.3 are thus also commonly cited as evidence for Byzantium. On self-sale in Byzantium, Rotman, *Les esclaves et l'esclavage*, pp. 238–41.

⁷ *Novelles de Léon VI le Sage* no. 59, pp. 220–3; Rotman, *Les esclaves et l'esclavage*, p. 241. The version of Justinian, *Digest* 5.5.1 (= *Institutes* 1.3.4) given in the *Basilica*, a monumental Roman law collection compiled under Leo, accordingly omits the clause stating that people over twenty years of age could sell themselves: *Basilicorum libri LX, Series A (Textus)*, vol. VI, p. 2117. *Novelles de Léon VI le Sage*, p. 220, n. 3. In a different law (no. 100), Leo made an exception for free people who wanted to marry an unfree person whose master refused to part with their servant: for this purpose alone, he allowed them to sell themselves to the master of their prospective spouse. This law, however, has less to do with regulating self-sales than with an attempt to prevent mixed-status marriages, since it relies on the idea that both spouses had to be of the same condition.

latter was to remain free. This is the only evidence that any emperor ever seriously tried to stop self-sales, and it is difficult to know what to make of it. By seeking to re-establish the principle of the inalienability of freedom, it constituted a ruling about this matter which at least made sense on its own terms, as earlier legislation arguably never had.

Self-sale was a problem in Roman and Byzantine laws because this practice was so distinctly at odds with their common ideology of protecting freedom. It is striking how much emphasis they placed on presenting self-sellers as having laid open a fundamental flaw in their character, and something like a predisposition for servility. The change in legal status, then, only reflected the existing unworthiness of the self-seller: it was not a transformative event in itself, but more a realignment of legal status to match personal qualities. (The same applied to the opposite trajectory, manumission, which was meant to recognize the progression of new freedmen, through constant work and effort spent improving their moral character, from a servile state of being to a better one, at which point they could appropriately be freed.⁸) Enslavement in Roman ideology was always, then, lent a punitive dimension in principle, even when it had been voluntary in practice.

A similar set of ideas, and an equally strong emphasis on enslavement as the outcome of a deficiency in moral values, applied to what we would think of as punitive enslavement in a more straightforward sense—namely penal servitude. Justinian did not mention penal enslavement among the different ways of becoming a slave, however, because in Roman law it corresponded to a different conceptual sphere. Roman law maintained a distinction between slaves and convicts. Penal enslavement meant enslavement to the state and to the fisc, rather than to any particular person; as a consequence, it usually also involved distinctive types of work, such as labouring in the mines or participation in public works. The link between social respectability, moral virtue and legal status mattered here too: in the later empire, monetary fines and penal servitude were mandated as alternative punishments, each applicable to different social ranks (respectively to the ‘better people’, the *honestiores*, and to the ‘lower people’, the *humiliores*).⁹

None of these traits, as we shall see, applied to penal enslavement in the early medieval West. Penal enslavement in that period operated with an entirely different logic, and fulfilled different functions from those it had under Rome (and it also changed in Byzantium, since Justinian abolished it).¹⁰ In the early medieval

⁸ Mouritsen, *The Freedman in the Roman World*, p. 35.

⁹ On Roman penal servitude: Millar, ‘Condemnation to hard labour in the Roman empire’; Groen-Vallinga and Tacoma, ‘Contextualising condemnation to hard labour in the Roman empire’.

¹⁰ Justinian, *Novels* XXII, 8. Leo VI, ever the imaginative outlier in Byzantine legislation, mandated enslavement for three years for people who had switched sides to the enemy twice and then returned of their own free will; it then became permanent for people who had done this three times. Leo says these people should be ‘sold’, so he evidently did not mean enslavement to the fisc. The overall intent was to make the penalty milder than the original one, which was death. *Novelles de Léon VI le Sage* LXVII, p. 244; Hadjinicolaou-Marava, *Recherches sur la vie des esclaves*, pp. 100–1. The possible reference to penal enslavement in *Peira* 66.27 deals with someone who was already a slave, and was being given to the widow of the man he had killed (ed. Zachariae von Lingenthal, p. 287; Zepos and Zepos, p. 250; discussed in Köpstein, ‘Sklaverei in der “Peira”’, p. 15).

West, penal enslavement applied in cases where someone proved unable to pay the compensation owed to someone they had wronged, in effect blurring the line with debt slavery; it virtually always involved enslavement to a particular individual rather than to the state; and it did not imply any particular kind of work as its outcome. The forms and functions penal enslavement took under Rome and in the early medieval West were therefore different enough to make it difficult to speak of continuity.

Self-sale too was regarded very differently in the early medieval West, where, in contrast to Rome and Byzantium, it does not seem to have been regarded as an ideologically transgressive, immoral, nor even a particularly shameful act. Although it was certainly always regarded as a momentous turn of events, it was no longer seen as the sign of a deep and intrinsic character flaw, but, instead, as a great misfortune; to the extent that any moral controversy surrounded it, it affected the self-sellers less than their buyers, who had to defend themselves from being seen to be taking advantage of those weaker than themselves.

It is possible that these very different takes on processes of enslavement are largely down to the fact that the main source of information on these issues for the Roman era is law, which is representative only of the way the state (and jurists) felt about them, which was probably rather different from the ways most people felt. By the early middle ages, laws still loom large in the source material, but early medieval kings were not in a position to intervene in the attribution of personal status to anywhere near the same extent as the Roman state once had, and showed correspondingly less interest in governing it (see Chapter 6). But the difference cannot be merely a difference in source base. For one thing, it surely mattered in itself that there was no longer a Roman state arrogating itself the sole legitimate right to assign and guarantee legal status—even if only to recognize it retrospectively. Early medieval law-makers did not fundamentally object to people taking their status into their own hands, which may have helped to open up a more varied set of options, as well as, significantly, to add more attractive ones to the mix. This connects with the other key difference, that of attitude. By the early middle ages, some people at least, and not always the very poorest, seem to have taken a very instrumentalized view of their own status, and disposed of it in order to achieve a variety of different aims.

None of the means of enslavement found in the early middle ages was altogether new; all had, one way or another, already existed under the Roman Empire. This fundamental continuity in the formal legal framework, however, did not stop these practices from being put to work in very different circumstances, and in order to achieve very different ends, in the early medieval West. The variety of these circumstances and purposes suggests that unfreedom itself had acquired many emergent properties and new possibilities along the way.

FRANCIA

Some time in the late sixth century, the poet Venantius Fortunatus wrote a poem to his friend Gregory of Tours, recounting how he had run into a couple sobbing

copiously by the roadside.¹¹ Their daughter, it turned out, had been accused of theft, and, despite lack of evidence for the accusation, had been sold. Her father said he had got together witnesses to support her case, but that the judge did not turn up and the accuser proved too powerful; he cited his poverty as the reason why his case had failed. Fortunatus, at first thinking he could not help, was inspired by the thought of Saint Martin to appeal to Gregory, Martin's successor to the see of Tours, asking him to look into the matter and, if the girl proved to be innocent, to return her to her parents.

There was evidently very little the father in this poem had been able to do to defend his daughter. His poverty put him at a disadvantage on several grounds: first, in limiting his ability to summon together networks of support to help his daughter's case; and, having lost the case, in making it unlikely he could afford a compensation payment to redeem her from her punishment. The statement from the jurist Paul's *Sentences* cited earlier, that 'a free person is not to be valued at any price', no longer made much sense in the early middle ages: by then, it was very clear that free persons most certainly *did* have their price, and in a very concrete way, as the cost of injuries for victims as well as that of redemption from punishment for perpetrators were both carefully calibrated in monetary terms. The amounts specified in various law-codes across all regions, although they could be negotiated in practice, were generally staggeringly high—much too large to be payable by a single individual, unless that individual was exceptionally rich—and would therefore nearly always have required the activation of networks of support, whether from kin or from friends and allies within the local community. This was an important aspect of the process, since insertion in such networks of solidarity also implied a degree of internal policing by the support group, who, faced with the cost of paying compensation, would have had a clear incentive to bring problematic individuals into line. The ability to put the compensation amount together, as well as the ability to find oath-helpers, witnesses, and guarantors to put up pledges and securities, all functioned at least partly as a test of local and familial standing, as well as of the extent of support backing up any particular individual.¹²

Still, if there was a test, an irremediable corollary of it is that some people will have failed it; that is, after all, the point of tests. The whole process was geared towards offering options to third parties over the extent of their participation and support in any particular case. This is probably why Fortunatus insisted that the father had been able to muster witnesses, and that 'he had each one by name' (*nomine quemque tenens*): this was meant to show Gregory that the father had at least *some* local standing and support—even if his supporters were themselves too poor to contribute to the compensation payment, or did not choose to invest to such a considerable extent in the outcome of this particular case. The poverty and social weakness of the father made his daughter particularly vulnerable, since it meant that nobody needed to worry much about what might happen if the case was not settled in his favour. The low stakes of this case for the local community

¹¹ Fortunatus, *Carmina* V, 14.

¹² For a fuller version of the same argument, see Rio, 'Penal enslavement'.

are also evident from the judge's total lack of interest in it. Any process of dispute settlement so profoundly linked to informal negotiation and self-policing by the local community obviously implies that those who could find little material support within it would have tended to lose out. Making local support the litmus test of the viability of someone's case in court necessarily meant that both kin and community had to be offered ways to desolidarize themselves from the accused if they so wished. This was the function of penal enslavement: when all else failed, it secured compensation for the accuser, who could either take the condemned into his or her own service or sell them on to a third party.¹³ In this case, the asymmetry in the social positions of the two parties, accuser and accused, created little scope for bargaining. Since the girl in Fortunatus's poem would have had little to contribute to the deal apart from herself, she is very likely to have ended up a domestic slave.

A scenario of this kind clearly constituted the very worst possible outcome. But different solutions could be reached even in cases of penal enslavement, by definition the situation where we would expect to find the least room for compromise. Formularies (collections of documents turned into models for future use, surviving from the sixth to the tenth century) constitute a particularly useful source for matters involving legal status in Francia, and can help to make up for the very low rate of survival of actual archival documents dealing with such issues.¹⁴ In one formula, for instance, a third-party buyer had to pay compensation on behalf of a condemned man, but also, on top of that, paid a purchase price to his new dependant.¹⁵ In another formula found in a ninth-century manuscript, an unlucky burglar, who had been caught ransacking the cellar of a monastery, had to agree

to put your arm on my neck and cause myself to be handed over to you [the abbot] by the hair of my head before witnesses, in such a way that until I am able to return your *solidi*, I must be in your service and do whatever tasks you yourself or your subordinates order, and if I seem negligent or slow in this, I promise that you may order the same discipline to be inflicted upon my back as on your other *servi*.¹⁶

This latter case is particularly telling, because it is representative of a striking development in the mechanisms of penal enslavement. By the Carolingian period, there was a new, distinct tendency for the transfer of status to become understood less as enslavement proper than as a temporary pledge. This virtually removed any conceptual difference between enslavement for crimes on the one hand and debt slavery on the other.

A reading of penal enslavement as a form of pledging meant using one's own status as collateral for debt (the unpaid compensation) rather than renouncing it definitively. This process is in evidence in several Carolingian capitularies outlining

¹³ Outlawry seems to have fulfilled a similar function (for Iceland: Miller, *Bloodtaking and Peacemaking*, pp. 238–9; on penal servitude in Scandinavia: Karras, *Slavery and Society in Medieval Scandinavia*, pp. 52–5).

¹⁴ On this type of text, see Rio, *Legal Practice and the Written Word*.

¹⁵ *Formulae Andecavenses* 2 (Zeumer, *Formulae*).

¹⁶ *Formulae Pithoei fragmenta* 75; = *Formulae Bignonianae* 27 (both in Zeumer, *Formulae*).

enormous fines to be paid for wrongdoing (kings were mostly concerned with payment of the *bannus*, the fine to be paid for failure to obey the king's command, such as refusal to join the army or to accept new coinage). These capitularies all stipulate that if the wrongdoer could not pay, he should give himself as a pledge, and recover full freedom once the fine was paid.¹⁷

The notion that penal enslavement should be only a temporary stage cushioned its impact on the offender's immediate family. In general, laws mostly tried to shield families from the consequences of the enslavement of one of their members, and this may have been part of the point of reframing enslavement as pledging. Many laws on the subject were especially concerned with protecting the unity of the married couple: while most law-makers took a very dim view of mixed-status marriages in principle (which could lead to enslavement of the free spouse, unless a deal was struck), the free wife of an enslaved man was encouraged to stay with her husband, and her freedom as well as that of their children was protected.¹⁸ One Carolingian capitulary dealing with a man unable to pay the *bannus* owed to the king for having failed to join a military campaign said he should give himself as a pledge to the fisc until he was able to repay his debt, and expressly stated that if he died before the debt was repaid, his heirs would receive their inheritance as normal, and would not themselves lose their freedom.¹⁹

This makes it difficult to see penal enslavement as a Carolingian state policy intended to replace dwindling external sources of slaves, as Pierre Bonnassie imagined.²⁰ If anything, Carolingian kings seem less keen than one might have expected to use penal enslavement as part of their arsenal of 'public' punishment. Charlemagne, indeed, explicitly ruled against the use of enslavement to resolve cases of theft: theft, like other major crimes, was deemed too serious to be settled through monetary compensation or enslavement, and was to be punished instead through mutilation or death.²¹ In his Edict of Pîtres (864), in a clause stipulating payment of the *bannus* for rejecting good silver coins, Charles the Bald instructed his local officials that, if some culprits could not pay the full sum, they should write a report and leave it up to the king to determine what punishment was to be meted out, 'so that men are not weighed down unduly or beyond measure; for, as Scripture says, "we do not require the amount, but the fruit"; that is, we do not demand dishonest profit, but only what is given to the kingdom for punishment.'²²

¹⁷ *Capitularia* I, no. 20, c. 19; no. 41, c. 3; no. 70, c. 3; no. 74, c. [1]; no. 139, c. 2; II, no. 201, c. 2.

¹⁸ Although penal enslavement still counted as one of the few legitimate grounds for divorce, at least in earlier Carolingian councils and capitularies. *Capitularia* I, no. 16, c. 6; no. 157, c. 4; no. 158, c. 1; II, no. 201, c. 15 in ms. Paris BnF 4613; later, no. 252, *canones extravagantes* 2 expressly forbade enslavement as a cause for divorce. For enslavement on account of marrying an unfree person, see Chapter 6, pp. 233–5.

¹⁹ *Capitularia* I, no. 74, c. [1].

²⁰ Bonnassie, 'Survie et extinction': from the English translation, 'Survival and extinction', p. 36: 'the judicial machine, throughout the early Middle Ages, functioned as a system for the enslavement of the free poor'; pp. 53–4: the 'revival of the [slave] system...attempted, especially under Charlemagne, in parallel with the reconstruction of the state'.

²¹ *Capitularia* I, no. 77, c. 15; no. 20, c. 23.

²² *Capitularia* II, no. 273B, c. 22. This is in contrast with I, no. 20, c. 19 and no. 74, c. [1], which had ruled the defaulter should hand himself over to the fisc as a pledge. Note private claimants could

Penal enslavement as a punishment answered the needs of local communities and kin groups more than the state's.²³

The need to find means to control the recent penally enslaved must have been keenly felt: these were, by definition, people who had already shown themselves willing to play fast and loose with existing norms of behaviour. It would have been especially crucial as, once someone passed into unfree status, they fell from then on under the legal responsibility of their new lord rather than their family, which, on the face of it, gave the enslaved tremendous potential scope for resistance against their enslavers—though given the punishments applicable to the unfree, it might come at great cost to them too. The issue was clearly serious enough that Charlemagne included it among the items to be added to Salic law (the same clause was reiterated in Charles the Bald's Edict of Pitres, and again, further afield, in the *Leges Henrici* in England). This law gave the lord of someone who put himself into unfree service as a pledge for debt or for failure to pay compensation, and then went on to cause damage to someone else, a stark choice between either paying compensation, in which case he got to keep his dependant, or bringing him to be tried in the public assembly, thereby treating him as a free man and losing any claim over him.²⁴

The temporariness of penal enslavement, by instilling a hope of future release for good conduct, would have created a powerful incentive for everybody to stick to the dispute settlement, including those people who were most disadvantaged by it. It also allowed for the possibility of conditional reinsertion within the local community. Even more than the hope of manumission, the possibility of future release from penal self-pledging would have encouraged and pressured the pledge-giver not only to play by the rules with respect to their new lord, but also to continue to seek support and approval from the rest of the locality, in a bid to succeed eventually where they had failed initially—that is, in securing some sort of financial backing and help from third parties in order to pay compensation. If they failed, it would presumably never be paid, and their unfree status would become in fact, even if not in principle, permanent.

Using free status as a loan security seems to have been a fairly standard practice in other, more straightforward instances of debt as well. Once again, the richest source for this is found in legal formulae, which contain models for documents of penal enslavement, debt slavery and self-sale, all of which tend to be grouped together in each collection.²⁵ These models show people becoming unfree for a variety of reasons, all subsumed under the general heading of poverty: by and large

still take a much harsher stance: *Capitularia* I, no. 33, c. 30: 'Those who have thrown themselves on the emperor's mercy and sought his intervention are not to be bound, enslaved or sold'—implying claimants were likely to do this if the convicted person did not have much to offer.

²³ A point made on other grounds by Spicksley, 'The decline of slavery for debt'—connecting the decline of debt slavery to the growth of the state.

²⁴ *Capitularia* I, no. 39, c. 8; II, no. 273B, c. 34; *Leges Henrici Primi* 89.3. What legislators insisted lords absolutely must *not* do was to treat their dependants sometimes as unfree and sometimes as free, according to what suited them: II Cnut 20.1 (Robertson, *Laws*); *Leges Henrici Primi* 78.2b.

²⁵ On self-sale in formularies, see Liebs, 'Sklaverei aus Not', pp. 295–309. For a different interpretation, Rio, 'Freedom and unfreedom', pp. 27–32; also Rio, 'Self-sale', pp. 671–2.

formulae describe self-pledgers and self-sellers as unable to support themselves or to pay a debt or a fine. All of these examples, then, cite the need for resources as their common motivation. Several of these texts, in which enslaved persons address their third-party buyers in order to acknowledge their new relationship with them, show that praising the piety of one's buyer was seen as good form.²⁶

This picture, however, is complicated by the presence among these texts of a number of highly unorthodox agreements, pointing to a level of negotiability. The way in which some of them are presented, particularly in the formulary of Angers (collated some time between the late sixth and mid-eighth centuries), suggests that people took a very practical, utilitarian view of their free status, and disposed of it unsentimentally, like any other valuable commodity.²⁷ In some instances, people pledged their own status as security much as they might have a field or a vineyard.²⁸ Formulae show a number of people agreeing to become unfree on a temporary basis in exchange for a cash loan, on repayment of which they were to recover a fully free status, as if nothing had happened. Judging by the case of the man who pledged only 'half' his free status in exchange for a loan, arrangements of this kind could even be envisaged on a part-time basis (agreeing to join the lender's unfree workforce for a certain number of days each week).²⁹ The notion of the temporariness of agreements concerning status, then, went beyond penal enslavement. A Merovingian council ruled that *all* free people who became unfree, whether for crime, debt, or through a voluntary sale, should be allowed to redeem themselves and recover a fully free status without having to become freedmen.³⁰

This shift is likely to have had two major consequences: first, it may have encouraged people to think of alienating their free status as an option in the short term, to cover problems of cash flow. This was presumably always a gamble, but the more unusual, negotiated agreements in formularies show that it was a gamble some people were prepared to take even when their back was not against the wall. Loan agreements may have left room for more unusual arrangements, so that framing the relationship as an ongoing debt, rather than a permanent change in status, may have made it a more attractive option even for people who did not expect ever to repay it. Many formulae of self-sale mention unrepaid debt or theft as their root cause. Second, the consequence of default, and such agreements becoming permanent, would have been the likely perpetuation of complex, piecemeal forms

²⁶ *Formulae Andecavenses* 3; *Formulae Marculfi* II, 28; *Formulae Arvernenses* 5; *Formulae Senonenses recentiores* 6 (Zeumer, *Formulae*).

²⁷ For examples of voluntary self-sale, see *Formulae Andecavenses* 17, 19, and 25; *Formulae Tironenses* 10 (= *Collectio Flaviniacensis* 17). As a result of a loan or debt: *Formulae Andecavenses* 18 and 38; *Formulae Marculfi* II, 27; *Cartae Senonicae* 4 and 24. Penal slavery (though note that unpaid debt could also be expressed as theft): *Formulae Andecavenses* 2 and 3; *Formulae Arvernenses* 5; *Formulae Marculfi* II, 28 (= *Collectio Flaviniacensis* 100); *Formulae Salicae Bignonianae* 14; *Formularum Pithoei Fragmenta* 75 (= *Formulae Salicae Bignonianae* 27); for Spain, see *Formulae Visigothicae* 32, and also perhaps 45 (Zeumer, *Formulae*). For a discussion and translation of *Formulae Andecavenses*, see Rio, *The Formularies of Angers and Marculf*. For a different reading of these texts, see Liebs, 'Sklaverei aus Not'; Liebs, 'Selbstverkauf statt Schuld knechtschaft'.

²⁸ Compare *Formulae Andecavenses* 22.

²⁹ *Formulae Andecavenses* 38; already discussed in Rio, 'High and low', p. 48; Rio, 'Self-sale', p. 672.

³⁰ *Concilium incerti loci*, c. 14 (MGH *Concilia* I, p. 195).

of unfree status. This, in turn, is likely to have increased the gap between the conditions self-pledgers and self-sellers were living under and those of people who had been born unfree.

If the debt went unrepaid, self-pledging would become equivalent to self-sale, the point of which *was* a definitive change in status, unlike penal enslavement and debt slavery. People could be pushed to do this in the very direst situations, as in times of famine.³¹ Frankish capitularies, although they deal with this less often than with penal enslavement, do also contain the odd reference to self-sale. One, for instance, ruled that whereas women whose husbands became unfree could normally have the marriage annulled and marry someone else, the wives of men who sold themselves in times of famine could not, because they had benefited from the sale along with them.³² The expectation was therefore that this bound them to show solidarity with their husbands.

The most extensive discussion by far is in Charles the Bald's Edict of Pitres. The Edict of Pitres is well known for its numerous references to previous legislation (which are part of the reason why it is so huge). When it came to 'those Frankish men... who in time of famine, forced by necessity, sold themselves into service', however, Charles claimed to have been able to find no precedents, and drew on only tangentially related quotes from a wide range of sources of authority (Salic law, the *Lex Romana Visigothorum*, Exodus, and the letters of Gregory the Great). The vast majority of these in fact dealt with very different situations, such as capture in war or the sale of children, and had to be subjected to some rather creative reading to be made to fit into this new context. The edict therefore gives the impression that there was not much available by way of existing legislation about self-sales, including in Roman law. As we have seen, however, Roman law did in fact contain plenty of material about self-sales that Charles could have used if he had had a mind to—including many clauses more pertinent to this topic than the novel of Valentinian on the sale of children which he did quote. If Charles had had access to Justinian's codification, he would have found even more, but the Theodosian code on its own did not leave much room for doubt as to the views of Roman legislators. The actual treatment of self-sale in Roman law, though, was not at all helpful to Charles, because it treated them as fundamentally illegitimate. Charles, by contrast, took a very positive attitude towards self-sale, and chose to interpret the purchase of starving people as an act of Christian charity. He quoted Gregory the Great's statement: 'regarding those free men who are captured by pagans, if someone redeems them, those who have been redeemed should take care to give the same price to their redeemer, as if they had been redeemed from him, and remain in their freedom; but if a church redeems them, they are to be made

³¹ Gregory of Tours, *Historiae* VII, 45, p. 365, describes self-sales during a famine in 585—though one cannot exclude the possibility that self-sale in times of famine was being used as a literary trope: Rio, 'Self-sale', pp. 666–7. Liebs, 'Sklaverei aus Not', p. 296.

³² *Capitularia* I, no. 16, c. 6 (a. 758–768), p. 40. Charlemagne, in the *Notitia Italica*, annulled all documents by which people had sold themselves and their family, but made no attempt to reverse such agreements in Francia: no. 88, p. 187 (a. 776 or 781); McKitterick, *Charlemagne*, pp. 112–13, sees this as an attempt to win over the Italian population to Carolingian rule.

free gratis and without any compensation'.³³ He ruled that these terms should apply to self-sellers in his kingdom:

and if someone says that he does not want to give his money for a free man in a time of famine or for another necessity if he cannot keep him as a slave forever, let him heed what the Lord tells him through his apostle, saying: 'he who has the wealth of the world, and sees his brother is in need, and shuts up his heart from him, the love of God dwells not in him.' [1 John 3:17]³⁴

This effectively extended the expectation of temporariness to self-sales. Charles went on to forbid absolutely the sale of self-sellers abroad, and to guarantee the freedom of any pre-existing spouse and children. This is all a far cry, then, from Justinian's 'the legal condition of all slaves is the same'.³⁵ What had happened between the fifth century, when the Theodosian code was compiled, and the ninth to create such a turnaround in attitude?

Charles's choice of references shows that his approach was informed less by Roman law than by Christian approaches to self-sales.³⁶ The Christian tradition offered a different perspective on self-sale from Roman law, by stressing that it was not really these people's fault that they had found themselves in this situation; rather, the fault was everybody else's, for having failed to support them in a spirit of charity (or, indeed, for having caused famine in the first place by incurring God's displeasure). In this discourse, self-sellers were no longer weak-minded people who knew the price of freedom but not its value, as Roman law had portrayed them; instead, they were now victims.³⁷ This effectively removed the strong distinction between people who had been enslaved by force (whom Roman emperors had been keen to protect) and self-sellers forced by necessity (a motivation Roman emperors had not recognized as legitimate). At least in the context of religious literature, the suspicion of a deep character flaw was now laid at the door of the buyers, whose role in all this brought them perilously close to being oppressors of the poor.

This explains the repetitious insistence that self-sellers had been 'forced by necessity' in the Edict of Pitres: this exonerated them from any moral responsibility in the unfortunate turn of events which now affected them. But Charles emancipated himself from earlier Christian writings on the topic at least as much as he did from the Roman law tradition by simultaneously assigning a very positive value to the act of buying a self-seller: buying self-sellers saved them from death, and so counted as charitable redemption, regardless of any duties that would be imposed upon them as a result of the arrangement. In fact, Charles presents it as a sin *not* to buy people who asked you to buy them. What he was effectively doing was finding a way to make self-sale morally acceptable, indeed an upstanding thing to do, for *both* sides, whether self-seller or buyer.

³³ Gregory the Great, *Registrum epistolarum* IV, 17 and IX, 52.

³⁴ *Capitularia* II, no. 273, c. 34.

³⁵ Justinian, *Institutes* I.3.4.

³⁶ On slavery and Christianity more generally, see Chapter 6.

³⁷ On this, see Rio, 'Self-sale', pp. 668–9.

This resolution of all previous tensions and controversies regarding this practice into an overall gloriously balanced and positive picture was a new departure in capitularies; but it ties in with a tendency that can already be seen from much earlier in formulae, which, whenever a free person was being bought, were careful to insist that these arrangements did not amount to the oppression of the poor, which all the powerful (*potentes*) must avoid, but rather its very opposite, protection and charity: the actions of buyers were presented as amounting to alms-giving, allowing them to stake their own claim to the moral high ground.

Accordingly, poverty is typically mentioned as a motive in the Frankish formulae already discussed. Sometimes it doubtless reflected reality; in other cases, though, it was clearly not the whole story. The practical outcomes could differ sufficiently widely to suggest that self-sellers too, like self-pledgers, could operate from a variety of different starting points. One text from the formulary of Angers, for instance, shows us a couple selling themselves, but makes it clear that they had owned some landed property outright, which they were now transferring to their new lord; the expectation in this text is evidently that they would continue to occupy their land, albeit on different terms.³⁸ Poverty was cited in documents covering a wide range of outcomes, including some in which the dependant managed to create a relationship of dependence without even having to become unfree. For instance, two formulae, featured side by side in a collection compiled some time in the eighth or ninth centuries, show us two free people said to be threatened by famine: one of them sold himself; the other negotiated for a loan in exchange for labour, and in this instance no mention was made that this labour would be unfree.³⁹ We can only speculate as to the reasons for this divergence in outcomes, but what is obvious is that the use of the vocabulary of poverty, no doubt partly intended to describe the lord's action as a favour, and to emphasize his piety, was masking what must have been very different circumstances. References to poverty perhaps merely reflected what was expected of this particular style of document.⁴⁰

The symbolic chain of poverty, material relief, piety, and service was not restricted to agreements involving unfree status, and could include virtually all forms of agreed service at non-elite levels in general. In different combinations, it even stretched, perhaps most surprisingly, to cases where the relationship that was being established was what is often seen by anthropologists as the polar opposite of a slave–master relationship, namely a kin relationship, for instance, with adoptions.⁴¹

³⁸ *Formulae Andecavenses* 25; Rio, 'High and low', p. 51.

³⁹ *Cartae Senonicae* 3 and 4 (Zeumer, *Formulae*).

⁴⁰ As Barthélemy has suggested for references to poverty in documents from Marmoutier, it could also have served to reinforce the validity of the transaction: 'the alienation of oneself or of one's property was a grave act in the society of that time; in order to stop relatives from disputing its legitimacy, the givers had [to be seen] to have been constrained by poverty and necessity' (Barthélemy, *La société dans le comté de Vendôme*, p. 300). Indeed, the very fact that these people needed support from a more powerful party was enough to make them *pauperes*, since the word by the early medieval period meant 'weak' more than economically 'poor' (Bosl, '*Potens und pauper*').

⁴¹ See Rio, 'High and low', pp. 55–8. Laurent Feller has also noted the case of *affiliati* in Farfa, which involved the adoption of outsiders by unfree tenants to secure optimal spread and continuity of labour on tenancies—showing again how close functionally kin ties and slavery could be, even though they normally stand at opposite ends of the spectrum symbolically (Feller, '*Liberté et servitude*'),

A degree of assimilation between the service offered by junior family members and that offered by servants seems to have existed in the mind of at least one scribe, who curiously merged in his collection two formulae taken from the seventh-century Marculf collection, one dealing with a man giving property to his grandchildren in exchange for their support in his old age and 'poverty', the other concerning entry into unfree service.⁴²

This suggests that poverty was sometimes a way of signifying the parties' relative symbolic, rather than social, positions. If so, it is surely telling that this vocabulary of need and favour was used to cover many relationships of power and dependence, in which status sometimes took only a secondary role. It is often difficult to tell apart, in their material consequences, those agreements which led to unfreedom from those which did not. In one text from the eighth-century formulary of Tours, which in every other respect presents strong similarities with formulae of self-sale, a man, emphasizing his great material need, gave himself to a lord, but 'as a free man'. The resemblances between this text and formulae of self-sale do not mean that this man was not indeed free as a result of this agreement: it simply means that the difference between agreements leading to freedom and those leading to unfreedom was sometimes only a question of degree.⁴³

All this suggests that self-sales need to be situated on a broader spectrum of agreements involving service and payment, in which a free status could constitute only one valuable bargaining chip among a range of others. People entering free service were merely those who had been able to negotiate better terms as part of fundamentally similar kinds of negotiation: on which side of the free–unfree divide a person would end up presumably depended on bargaining position, though what that was is usually left unsaid. Unfree service could even be compatible with high-status service: in one formula included in a collection compiled by a royal notary, the emperor Louis the Pious confirmed the free status of the children of a man who had given himself to him voluntarily, *nullo cogente*, 'with no-one forcing him', and confirmed their ownership of all the property their father had given them before becoming unfree.⁴⁴

This careful manipulation of symbolic language was still highly relevant towards the later end of our chronological period, in the eleventh-century documents of self-gift (also known as 'autodédiction') from the *Book of Serfs* of Marmoutier, which also typically emphasize poverty and the charity of the new lord.⁴⁵ The exceptional

p. 517; Feller, *Les Abruzzes*, pp. 529–32). These cases at least suggest that adoption was not such a totally irrelevant practice in medieval Europe after all (as concluded, a little too hastily, by Goody, *The Development of the Family and Marriage*, pp. 72–5).

⁴² *Formulae Salicae Merkelianae* 25–6 (= *Formulae Marculfi* II, 11 and II, 28); Zeumer divided this into two distinct formulae, though it was copied as a single text in the manuscript (Vatican reg. lat. 612) (Zeumer, *Formulae*, p. 251).

⁴³ See Rio, 'High and low'. *Formulae Turonenses* 43; for the suggestion that this was not 'really' free service, see Devroey, *Puissants et misérables*, pp. 164–5.

⁴⁴ *Formulae imperiales* 45 (Zeumer, *Formulae*). This document also refers to some link between this self-gift and the father's ability to inherit from his own brother, but the text is unfortunately missing at this point—the self-sale may have been motivated by the desire to secure this land.

⁴⁵ Salmon, *Le livre des serfs*. Barthélemy, 'Les autodédications en servage'; Barthélemy, *The Serf, the Knight and the Historian*, p. 37–51. A similar interpretation of the Marmoutier documents had already been put forward by Richard Southern in *The Making of the Middle Ages*, pp. 96–101: 'It was not a

survival of this cartulary means that voluntary entry into unfreedom is much better documented for the eleventh century than it is for earlier centuries.⁴⁶ This could be read as a genuine spike in the number of free peasants becoming unfree, lending support to the notion of a 'feudal revolution' bringing increasing numbers of peasants into serfdom. Dominique Barthélemy has presented a comprehensive rejection of this view, arguing that these self-givers were not usually peasants, but people with specialized skills to offer, who were entering only a particular form of service to the monastery; he also emphasized how tightly negotiated these agreements could be. Self-gifts in the eleventh century, however, also covered a wide range of situations beyond that of skilled workers. In St-Peter's, Ghent, another rich cache of self-gift documents ranging from the tenth to the twelfth century, the process seems to have involved mostly women, often widows, who were not after employment or material support so much as legal representation from the monastery.⁴⁷

Some Marmoutier self-gifts were clearly the outcome of disputes. Although there are a few cases of penal enslavement from eleventh-century Touraine, the same outcome was more often presented as a gift of oneself, rather than as having been coerced.⁴⁸ Since gifts were in any case regarded as a highly appropriate way of making amends, this is perhaps not a particularly surprising development. The most common form for framing such arrangements, by this time, seems to have been a compromise formulation where the transfer of status was taken as a freely given gift, *along with* a declaration of extreme poverty.

special degree of misery which drove these men of Marmoutier into serfdom, but the need which was felt on all hands for a more lasting and intimate relationship between landlord and tenant for the cultivation of the soil, than that provided by the forms of free society' (p. 100).

⁴⁶ Fouracre, 'Marmoutier and its serfs', pp. 35–6. Fouracre concentrates more on the dispute documents (see especially pp. 45–8 for evidence of continuity from the Carolingian world). See also Fouracre, 'Marmoutier: *familia* versus family'.

⁴⁷ See *St-Peter's Ghent* no. 103, in which a woman agrees to become a *tributaria* of St Peter's, but only if her husband died before her and she had had no children; if she did have children, she would supply a woman of child-bearing years from among her own *mancipia* to stand in for her, and she would 'remain *libera*'. For examples of women said to have a 'noble' family background: nos. 137, 251, and 360 (*nobilis matrona*). Some examples explicitly reserving a free status: nos. 27 (a. 959), 128, and 189 (*pro conservanda in posterum libertate sua*—possibly a reference to eternal freedom after death, sometimes emphasized in arengas in these texts, but if so, this is made less clear than usual). Self-gifts explicitly as *ancillae*: nos. 108; 155; 158; 161; 172; 174; 195; 210; 221; 226; 227; 234; 279; 280; 316; 348; 350; 367; 378 (a. 1197). See also nos. 68; 77; 80; 82; 84; 85; 86; 106; 107; 111; 112; 115; 121; 131; 136; 138; 141; 142; 145; 148; 149; 157; 162; 164; 166; 173; 175; 176; 178; 180; 191; 192; 193; 196; 200; 204; 212; 219; 224; 225; 233; 237; 239; 249; 297; 323; 335; 343; 357, from 1188, involving a couple who also gave land, and for whom the monastery had to commit to building a house. For an apparently similar case in the late tenth century in Reims: *Polyptyque St-Rémi*, p. 78: 'Tempore Hervei archiepiscopi quaedam femina nomine Teutberga cum infantibus suis tradidit se ad sanctum Timotheum, tali tenore ut denarios III dimidium unusquisque ad ipsam potestatem persolveret.' See Barthélemy, *The Serf, the Knight and the Historian*, p. 132, n. 234 (and also p. 100, n. 134 for a case involving St Mihiel). On women and self-donation, Santinelli, *Des femmes éplorées*, pp. 104–6; Helvétius, 'Sainteurs', in which most of the cases covered also involve women.

⁴⁸ For penal enslavement, see the case of Martin Tireuil, Loir-et-Cher, Archives départementales, Blois, 16 H 118, no. 11 (= ARTEM no. 2277); discussed in Barthélemy, *The Serf, the Knight and the Historian*, pp. 61–2. For other examples, see also Salmon, *Le livre des serfs* no. 105 (a. 1062), at p. 99; for an earlier case (from 945): *Cluny* I, no. 669 (pp. 622–3), in which a man named Sicher gave himself in exchange for having killed a *servus* of Cluny; on this case, see Carrier, *Les usages de la servitude*, pp. 163–4.

In practice, there may not have been very much difference between these self-gifts and earlier self-sales: although the earlier transactions had included a price tag, it is likely that people had entered such arrangements not only in order to secure cash in times of need, but also to create a new relationship or reframe an existing one. On the face of it, then, Barthélemy's argument that there were more lines of continuity between Carolingian entry into unfree service and eleventh-century self-giving than there were signs of a 'revolution' has a great deal to support it, at least on a practical level.⁴⁹ But there were still important differences. Notably, by the eleventh century the language of the gift had completely displaced the wrangling over terms and conditions that is occasionally detectable in earlier, Merovingian- and Carolingian-era documents, as when people disposed of a fraction of their status, for a set period of time, or on a part-time basis. Also gone was the expectation of temporariness. All these bizarre experiments evidently had no central medieval afterlife, since they have so little to do with the concerns privileged in eleventh-century examples—where the whole point, on the contrary, was the establishment of a permanent and binding relationship, which the adoption of unfree status evidently symbolized in a uniquely powerful way.

Framing the process as a gift of oneself, as opposed to a sale, was also an important development, in the sense that it offered a different possible interpretation of who was doing the favour to whom, and allowed both parties to come out of the process with an enhanced symbolic position. Both parties were making a gift: one of themselves and their service, the other of protection and charity. The move to the language of gift, in a sense, represents the final stage in an overall development, which throughout tended to represent entry into unfree service increasingly as a relationship that was reciprocal in nature, and not in itself completely dishonourable. Roman emperors had condemned everyone involved in self-sales; the Christian tradition had rehabilitated self-sellers by emphasizing their lack of options; the Edict of Pîtres (and, much earlier, documents and formulae) rehabilitated buyers by ascribing to them charitable motives. All this happened against the background of a much-expanded scope for the commodification of one's own free status, which could be pawned and disposed of, as a whole or in fractions. By the eleventh century, the final snags and moral concerns over the practice had been ironed out. By then, however, the emphasis was no longer on status as a commodity, but on the language of gift. The potential of this language to put a positive spin on the whole process, and present the actions of both parties as good and mutually beneficial, could explain why *all* kinds of entry into unfreedom eventually came to be subsumed under this heading, regardless of their actual causes. Situations which earlier would almost certainly have been understood as penal enslavement, for instance, seem to have increasingly become framed as gifts too. This may explain the disappearance

⁴⁹ For a ninth-century document already insisting on the completely 'free' gift of himself made by a certain Berterius to Cluny, '*secundum lege romana*' (!), see *Cluny* I, no. 30 (June 887). For self-gifts to Lorsch: Lorsch II, no. 839 (a. 793): a gift by Adalmunt and his wife, including, along with lands, 'nosmetipsos at serviendum' (the same man had made a gift of land already earlier, but without his wife); also no. 1110 (a. 784 × 804)—on both of these see Staab, *Untersuchungen*, pp. 339–40, who interprets them as resulting from marriage to an unfree woman belonging to the monastery.

of penal enslavement from the record by the twelfth century: by the time Philippe de Beaumanoir was writing his *Coutumes de Beauvaisis* in the late thirteenth century, it was clearly only a distant memory. Although he listed penal servitude among the reasons why some people might have become serfs, he placed this explanation in his historical account of the original causes of serfdom, and certainly did not treat it as a contemporary practice with which he needed to concern himself.⁵⁰

ITALY

Comparable processes seem to have been at work in Italy, though with a different chronology and different symbolic emphases. In Italy the language of gift and reciprocity seems to have become important much earlier than in Francia, at least in some relationships of unfree service. At the same time, Italian sources also emphasize more the contrasts between different reasons and ways one might enter unfreedom. These contrasts are made especially in laws. One tantalizing passage from a law of Aistulf, from 755, spells this out particularly clearly:

If someone out of his goodness enters the service of a royal official (*iudex*) or of another man, and serves him and his sons or nephews, and it is clearly true that all his relatives were free, and afterwards [the *iudex*] wants to detain him in his service, arguing that he has served him and his relatives for thirty years, he cannot hold him by virtue of this possession; because it is impossible, and against God's command, that while all his relatives are free, he alone, who served voluntarily, should be retained in service simply through this possession. But if he was handed over to serve on account of theft or for another crime, as the edict prescribes, and this has been proven, he should [continue to] serve...⁵¹

This text shows that penal enslavement and voluntary service both existed in Italy, but it approaches them very differently from Frankish laws. The starkest difference is in the meaning of the voluntary service: so much emphasis is placed not only on its voluntary nature, but also on its revocability at any time if the servant changed his mind, that it does not end up looking much like unfree service at all. Indeed, perhaps this law was intended to contrast this situation with unfree service. Since the services rendered by free and unfree servants were often practically indistinguishable, it may have been intended to protect free servants from being unjustly reduced to unfreedom after thirty years as a result of this similarity (this corresponds to what was effectively a statute of limitations, widely used in early medieval Europe in general, and intended to make permanent any claim of ownership which had not been contested for thirty years or more⁵²). On the other hand, the reference to penal enslavement at the end of the passage, as well as the implicit contrast drawn between the man in question and the other, 'free' members of his family, suggests that Aistulf did have in mind relationships that were conceptualized as

⁵⁰ Beaumanoir, *Coutumes de Beauvaisis* 1453.

⁵¹ Aistulf 22 (*Leges Langobardorum*).

⁵² The thirty-year rule was widely used across post-Roman Europe, and derived from Roman law: e.g. *Codex Theodosianus* IV, 14, 1; Levy, *West Roman Vulgar Law*, pp. 176–90.

unfree. The contrast he was making was not between free and unfree service, but between different motives for this service, honourable or dishonourable.

Judging by Aistulf's law, penal enslavement implied permanence. At first sight, this could not look more different from the growing Frankish understanding of penal enslavement as self-pledging. Lombard law did also have the latter, but its applicability was linked to the scale of the crime: while all those 'prodigal or ruined' persons who could not pay compensation had to be handed over as slaves to the plaintiff, those who owed under 20 *solidi* were transferred only temporarily, until they could pay off their debt.⁵³ Lombard law therefore seems to have offered slightly less room for manoeuvre for disputants than in Francia, perhaps because of greater commitment to intervening in dispute settlements at the local level; that is not to say, in any case, that this distinction was observed in practice.

Lombard law also went further than Frankish law in mandating penal enslavement for particular kinds of crime, rather than always offering compensation as an alternative. This was mostly for sexual crimes, such as adultery, which were perhaps seen as too egregious to be solved through compensation. But the emphasis on enslavement in the case of sexual crimes may also have been intended to deal with the particular problem of conflict within a kin group. Compensation was ill-equipped to help with this, since by definition it could only really provide a basis for settlement when the conflict was between members of different kin groups, with distinct and competing property interests. Since a husband and wife had common property interests, fining a wife only to give the amount to her husband would not have represented much of a punishment. There are some signs that kin could use penal enslavement as a means of jettisoning their more problematic members. In Lombard law, a free woman who married a slave was to be enslaved by her relatives, who would have the right either to kill her or sell her out of the country, and 'do what they wish with her property'.⁵⁴ While there are examples of free women marrying unfree men in Italy without attracting this harsh punishment, this still suggests that some families at least had been keen to enlist the authority of the law to intervene in the highly sensitive matter of sexual honour, and to use penal enslavement for this purpose.⁵⁵ Indeed, the state could be expected to continue to police behaviour and protect family honour even after the initial act of enslavement: two Carolingian capitularies for Italy reiterate existing Lombard law enslaving an adulterous couple to the woman's husband, and further add that if the couple were sold to a third party and continued their affair as slaves, the

⁵³ Liutprand 152 (*Leges Langobardorum*).

⁵⁴ Rothari 221 (*Leges Langobardorum*). If relatives failed to do this, the king's agents were to place her with the palace's slavewomen. See further Liutprand 24 and 98 (*Leges Langobardorum*). Later Carolingian legislation transferred the woman to the master of the male slave she had married: clearly the point was not to acquire more slaves of the fisc (*Capitularia* I, no. 159, c. 1; II, no. 201, cc. 13–14 in ms. Paris BnF 4613). For another instance of penal enslavement with sale abroad in Lombard legislation, see also Liutprand 84–5, on soothsayers (*Leges Langobardorum*).

⁵⁵ See, for instance, the case of the free woman Anstruda, who married a *servus* belonging to Toto of Campione (Gasparri and La Rocca, *Carte di famiglia* no. 1); Rainis, 'Storia della schiavitù femminile'. On mixed marriages, see Chapter 6, pp. 233–5.

palace would confiscate them both and put an end to it.⁵⁶ As in Carolingian Francia, there is no sign that the penal enslavement of one family member would necessarily have had negative consequences for the rest of kin group. Arichis of Benevento ruled not only that the wife of a penally enslaved man should remain free, but also that he should be allowed to work two days a week on his own account in order to continue to support her.⁵⁷ In Italy as in Francia, the range of life circumstances was very wide, and pre-existing wealth could help some penally enslaved people stay relatively comfortable despite the change in their circumstances—as in the case of Lupus, whom Guaimar I of Salerno gave to the church of San Massimo in 899: he had been enslaved earlier for having made a pact with the Saracens, but subsequently married a free wife and had children, all of whom were now being transferred with him, together with some fairly substantial landed property which the prince had confiscated along with him, but which seems to have remained under his control (accounting for his undiminished marriageability following his enslavement).⁵⁸

Aistulf's law had contrasted penal enslavement very strongly with handing oneself over to someone without having been compelled to do so. Judging by the reference to a *iudex*, a royal official, as a likely recipient of this kind of service, Aistulf may have been thinking of service as a military retainer more specifically. Retainers are fairly prominent in Lombard material; the word used to refer to them was *gasindus*, and in many cases it is, tellingly, very difficult to be sure whether their status was free or unfree (much as with the word *puer* in Francia).⁵⁹ This might provide a context for the insistence on the respectability of this sort of service, done 'out of goodness' (*pro bonitate sua*): it clearly had more scope to involve ties of sociability than a relationship involving a lord and a peasant. Aistulf takes remarkable pains, in fact, to say that this sort of self-gift was *not* to be understood as driven by necessity: in order for the lifting of the thirty-year rule to apply, the gift had to have been free and honourable. In contrast to our Frankish material, the assumption in Italy therefore seems to have been that in order for these positive interpretations to hold, the transaction could not be seen to be about money. This is much closer to the logic of the later Marmoutier self-gifts than to self-sale as it was understood in eighth- and ninth-century Frankish capitularies and formulae, all of which, as we have seen, emphasize poverty as a symbolic trope.

This contrast is confirmed by the fact that Northern Italian documents do not, by and large, tend to stress poverty or financial need as a motive. The language of Italian documents ascribes a great deal more agency to those who entered unfreedom voluntarily—sometimes as implausibly as Frankish documents with their claims of poverty. A number of people, for instance, seem to have given themselves to the abbey of Farfa in central Italy during the second half of the eighth century, and they, as in Francia, show a wide range of different starting points, as well as different outcomes, for their unfreedom. Some documents show a greater concern

⁵⁶ *Capitularia* I, no. 157, c. 3; no. 158, c. 2. ⁵⁷ Arichis 6 (*Leges Langobardorum*, p. 207).

⁵⁸ *Codex Diplomaticus Cavensis* I, no. 111 (899), pp. 139–40.

⁵⁹ On *gasindus*, see van Olberg, *Die Bezeichnungen für soziale Stände*, pp. 112–24.

for material support, and suggest actual dependence in practice; others suggest a much looser connection with the monastery. The case of Ubaldinus is an example of the former: he gave himself and his property to Farfa in 772 and agreed to perform service for it (*ut debeam servire*), specifying that he, in return, should obtain clothes and shoes from the monastery ‘as the other brothers do’ (*sicut alii fratres*). He was clearly trying to downplay the distinction between himself and the monks, but the penalty clause made it clear he would have to pay twenty *solidi* if he ever tried to leave.⁶⁰ By contrast, when a wealthy widow and her daughter gave themselves and their property to Farfa six years later, they made no mention of service at all, and included no penalty clause: instead, they gave a substantial amount of property, including a church.⁶¹ It is difficult to see in what sense these women had ‘given’ themselves to Farfa, or that their lives would have changed much as a result: perhaps they were mainly concerned with securing legal representation, as in the case of the women of St-Peter’s, Ghent. In other cases, ‘giving oneself’ seems to have simply been a way for elite people to enter and live in a monastery without actually becoming monks—as in the case of a certain Paulus, who gave himself to Farfa along with his wife and all his property (including some *servi*).⁶² If these are seen as the ends of a scale, there were many variations in between, as in the complicated later case of a man who agreed to become a *servus* of Farfa while giving only half of his moveable property, but not before having handed over a fairly substantial gift of land, including, it seems, a church and a watermill.⁶³ In another document, unusual in its level of detail, a man gave himself to Farfa specifically in order to work as a miller, keeping half of the revenue from the monastery’s mill for his trouble, as well as the freedom to dispose of his property after his death.⁶⁴

The common vocabulary of *servitium* at all levels of dependence, including military, political, and religious, is bound to create ambiguities. The case of Ubaldinus suggests that such ambiguity, particularly in the blurring of the lines between unfree service and religious service, may have been deliberately emphasized in Italy, and could be used to lend highly positive connotations to the language of serving and giving. In the case of the Farfa documents, this may even have corresponded to a deliberate feedback loop: new monks (especially, but not exclusively, in documents recording parents’ gift of their children as oblates) borrowed from the language of unfree service to heighten the seriousness of their commitment; their own documents were then mimicked in genuine self-gifts in order to absorb the honourability and spiritual value associated with them.

⁶⁰ *Regesto di Farfa* II, no. 81, p. 77.

⁶¹ *Regesto di Farfa* II, no. 119 (a. 778), pp. 102–3 (see also no. 92, a. 775, pp. 85–6).

⁶² *Regesto di Farfa* II, no. 251 (a. 821), pp. 207–9; Manaresi, *Placiti* I, no. 32. Panero, *Schiavi, servi e villani*, p. 47, takes the point to be avoidance of military service: the case survives as part of a dispute over some lands which Paulus had received from Duke Hildeprand of Spoleto, and which the new duke, Guinigi, had taken back from Farfa on the basis that Paulus had forfeited his right to them by failing to turn up for a military expedition to Benevento. But no explicit connection is made in the document between the expedition and Paulus’s entrance into the monastery, so the two are not necessarily causally linked.

⁶³ *Regesto di Farfa* III, no. 452 (a. 1004), p. 165.

⁶⁴ *Regesto di Farfa* II, no. 145 (a. 788), p. 122.

This cross-fertilization in vocabulary between different kinds of hierarchical relationship is nowhere more obvious than in a document from Lucca, in which a man ended up giving himself involuntarily, as a result of a scribal error: he had meant only to give his property to a church, but the scribe wrote that he was giving himself as well (once the mistake was discovered the scribe had to write a replacement charter and explained what had happened on the back).⁶⁵ This would have been an easy mistake to make, since most (intentional) self-gifts from the Lucca archive are extremely similar in wording to simple donations of property, only adding a 'myself' or 'my own person' (*me ipsum* or *me ipsum persona mea*) before the usual list of assets: examples include a married woman who gave herself and her house to a church, retaining the house in usufruct until her death and that of her husband; a man who gave himself with the consent of his father, and stressed he should be treated like any other unfree servant (*comodo unus de aliis seruis ipsius ecclesie*); two men who gave themselves and their property to a church, but with no greater consequence than having to pay one *solidus* each year; and clerics giving themselves and their property to the churches in which they were to serve (arguably a special case).⁶⁶ In Italy as in Francia, there was a continuum between agreements that led into an unfree status and those which did not, as in a famous case from San Vincenzo al Volturno, in 782, in which a certain Tribunus, after having lost his rights to land after it was ruled to belong to the abbey, gave himself and his sons '*salva libertate nostra*' ('with our freedom being preserved'), despite agreeing to a high level of constraint.⁶⁷

Italian monasteries, then, much like Marmoutier, seem to have used entry into unfree service to create a range of ties with the people who worked for them. Sometimes unfreedom was only brought into play to make sure of someone a bit unreliable: when a free man named Maurianus went to live in a house on the property of the monastery of San Salvatore in Monte Amiata, for instance, he agreed that he would have to pay the large sum of 80 *solidi* in compensation if he tried to leave (unfortunately, we do not know what work he had to do for the monastery there). As it turned out, he did leave, was brought to court in April 808, and was required to pay the 80 *solidi*; lacking the funds to pay this, and unable to find anyone to help him, he promised 'to serve the monastery... all the days of my life'.⁶⁸ Self-gift and penal enslavement, then, could both be harnessed by monasteries to achieve very similar ends—once again very much as in eleventh-century Marmoutier. Using

⁶⁵ *CDL* II, no. 251, dated 5 April 771 (p. 331).

⁶⁶ *CDL* II, no. 157 (pp. 86–8); no. 193 (pp. 181–3); no. 200 (pp. 198–9); no. 259 (pp. 354–6) and no. 266 (pp. 370–1); see also no. 269 (pp. 375–7).

⁶⁷ *CDL* V, no. 95, pp. 307–8; *Chronicon Vulturnense* I, no. 24, p. 196. See Feller, 'Liberté et servitude', p. 524; Wickham, *Studi sulla società degli Appennini*, pp. 23–4. For another case of entry into service retaining free status, but with an even greater level of constraint, from Monte Cassino in 819: Gallo, 'Una carta abruzzese', quoted and discussed in Feller, *Les Abruzzes*, p. 539, n. 36, and p. 540.

⁶⁸ *ChLA* 61:12: '*dum non habuisset qui me deliveraret de ipsa wadia, quod non potuit recolligere... promitto me deservire a pars monasterio... omnibus diebus vite mee*'. Another (just about) possible instance is *ChLA* 61:13, from the same archive, dated 1 July 808: Ermbert buys land from Graso, then leases the same land back to him and to his unfree son, whom Ermbert also manumits. The fact that Graso had his own land, but an unfree son, could conceivably imply penal enslavement, though it could also simply mean that the mother had been an unfree dependant of Ermbert.

entry into unfreedom to seal a labour arrangement was still relevant in eleventh- and twelfth-century Italy: in a remarkable document outlining the genealogy of a family of unfree dependants of Santa Fiore in Arezzo, dating from around 1100, one Dominicus Scaramella is said to have moved to Santa Fiore to work as a cook, swearing an oath to the abbot Rodulf ‘*sicut servus domino*’, and marrying an unfree woman there.⁶⁹

Italy and Francia probably had a great deal in common in terms of the range and the practical ends of different forms of entry into unfreedom: here as in Francia, many people entered unfreedom for many different reasons, and not only when they were at death’s door; as in Francia, status could sometimes be added to the mix of an agreement as a supplementary consideration, rather than the main object that was being negotiated over; as in Francia, it was a way for churches and monasteries to secure their relationship with new dependants; and once again as in Francia, the language of self-surrender into unfreedom borrowed from and shared a lot of common ground with other types of hierarchical relationship. Italy, however, does show a noticeably greater and much earlier concern to present voluntary unfree service as reciprocal in nature, and not in principle dishonouring. Self-givers, whether they gave themselves to a secular lord, as in Aistulf’s law, or to a religious institution, as in the cases of Farfa and Lucca, had a great deal of scope to present their own actions as an honourable gift of themselves, in the spirit of Christian virtue.

THE IBERIAN PENINSULA

Because of the extraordinary degree of influence of the Theodosian code on Visigothic law, sources from Spain present more of a split personality. Penal enslavement is everywhere, both in laws and in the documentary record; debt slavery, self-sale, or self-gift, by contrast, are virtually absent. This distribution, however, is likely to reflect not profoundly different social uses of enslavement from those found in the rest of early medieval Western Europe so much as the enduring influence of Roman law, from which the Visigothic code took its cue in its tendency to frame all forms of entry into unfreedom as punitive in some sense.

The highly judgmental Roman attitude towards self-sales and self-sellers was echoed in early Visigothic laws, summed up in the neat encapsulation: ‘he who submitted to slavery willingly does not deserve to be free’. Ervig’s recension in the late seventh century, however, added that if self-sellers or their family managed to repay the purchase price in full, they could recover a fully free status as *ingenui*, not freedmen, in a radical departure from Roman law.⁷⁰ This clause brings the treatment of this issue much more in line with the Frankish situation. The tension

⁶⁹ Pasqui, *Documenti per la storia della città di Arezzo*, vol. 1, no. 293, p. 401. His genealogy included a penal slave. For another late example of either self-gift or penal enslavement (it is not clear which), see Fantuzzi, *Monumenti ravennati*, vol. V, no. 37 (a. 1005), pp. 268–9.

⁷⁰ *Liber iudiciorum* V, 4, 10, pp. 220–1 (Ervig’s addition possibly alluding to Leviticus 25:48–49); contrast Justinian, *Digest* 1.5.21.

between the commitment to Roman law and new social practices is particularly evident in a seventh-century Visigothic formula for a document of self-sale, which was clearly referring to Roman law, as well as pinpointing its glaring contradictions, when it stated that:

although it is established by the sanction of the laws that no-one may depress their status of their own will, if someone is seen to struggle to support his person as is legitimate through some misery or necessity, and is constricted by his condition, he may have the free power either to better or depress his status as he judges fit. Therefore I deliberated with myself, and I decided to sell my own status (*statum meum*); and your lordship heard this, and agreed to my request...⁷¹

This text counts as a precious indication that early medieval Spain may not, after all, have been all that different from Francia in practice, and not as resistant as it claimed to the commodification of free status; but it is admittedly not much to go on. Penal enslavement is much more thoroughly documented. Law after law in the Visigothic code mandates enslavement as the only acceptable outcome for a range of different crimes.⁷² Sexual crimes dominate as an overall theme, as in Lombard law, but penal enslavement was not limited to these. In a further ostensible departure from the European norm, condemnation to penal enslavement depended on social status rather than the ability to pay: it was usually mandated when offences had been committed by the 'lower people' (*humiliores*). The Visigothic code was the only post-Roman law code to retain the late Roman distinction between these and *honestiores*. In practice, however, the situation may not have been that different from the rest of Europe, since the distinction between *humiliores* and *honestiores*, differentiating between people who had the right to settle through monetary compensation and those who would have to be enslaved, is likely not to have reflected fixed social ranks so much as simply the difference between condemned people who could pay compensation and those who could not.

We may suspect, then, that the difference between Spain and the rest of Europe lay more in the attitudes of legislators than in social practice, but it is hard to compare the two given that hardly any Visigothic-era documents survive.⁷³ However, plentiful documentation does survive for a later period, particularly from the tenth and eleventh centuries. By this time, judicial authorities were still very keen to refer back to the Visigothic code, in an ideological bid for continuity, and many settlements of disputes cited it using chapter and verse. By the time we see them in action in the tenth century, Visigothic laws involving enslavement seem to have

⁷¹ *Formulae Visigothicae* 32 (Zeumer, *Formulae*, p. 589). On this text, see Díaz, 'Sumisión voluntaria', interpreting it as the establishment of a 'light' subjection and a bond of fidelity.

⁷² E.g. *Liber iudiciorum* II, 4, 6; III, 3, 1–2, 5 and 11; III, 4, 1–3, 9, 14 and 17; III, 6, 2; V, 4, 11; V, 6, 5; VI, 1, 2; VI, 3, 1; VI, 4, 2; VII, 1, 1 and 5; VII, 2, 13–14; VII, 3, 3; VII, 5, 2; VII, 6, 2; VIII, 2, 1; IX, 1, 2; IX, 2, 8–9; XI, 1, 6. For the sale of women involved in sexual relationship with clerics: Vives, *Concilios visigóticos e hispano-romanos*. Toledo (589), c. 5 (pp. 126–7), Seville (590), c. 3 (pp. 152–3), Toledo (633), c. 43 (p. 207), Toledo (653), c. 5 (pp. 278–9); see also Toledo (655), c. 10 (pp. 302–3).

⁷³ There is one example in the hagiography of the Visigothic period, in the *Lives of the Fathers of Merida*, when Vagrila, his wife, and his children are enslaved on the order of Reccared for the attempted murder of Bishop Masona and Duke Claudius of Merida: *Vitas Sanctorum Patrum Emeretensium* V, 11, pp. 90–1; tr. Fear, *Lives of the Visigothic Fathers*, p. 98.

been used in ways not dissimilar to practices documented in the rest of Europe. *Honestiores* and *humiliores* had by then disappeared, and were dropped out of direct quotations from the code. Although the use of Visigothic law meant that the normal emphasis was reversed, by taking enslavement as the starting point and monetary redemption as the optional alternative, it could amount to much the same thing in practice. For instance, in a case from León, from 994, a widow called Cida Aion, who had been caught in adultery with someone else's husband, was condemned to serve as an *ancilla origenale* ('as if she had been born a slave woman'). She subsequently managed to avoid this fate by giving all her property.⁷⁴ In a Catalan agreement from 988, a certain Sentemir, who came very close to penal enslavement for hiding the testament his brother had made in favour of the monastery of Sant Cugat, managed to get away without even having to give all his property, in exchange for a gift of land and imploring for mercy.⁷⁵ In these last two cases, no unpaid compensation is mentioned, and enslavement was read as a literal consequence of statements in Visigothic law stipulating it as the punishment for the offences committed; nevertheless, it is clear that, here as elsewhere, property and freedom could each ultimately be substituted for the other.⁷⁶

Penal enslavement, despite this difference in starting point, also seems to have operated with a logic similar to that found in Francia. As in Francia, and despite the frequent reference to the Visigothic code, it seems clear that penal enslavement had less to do with the objectives of a state (which would be surprising in tenth- and eleventh-century Spain in any case), and more to do with judging the extent of support within the local community. A few documents show that penal servitude was also, as elsewhere, understood as potentially only temporary: one document from Vic in Catalonia (admittedly a region under a great deal of Frankish influence), dated 5 April 933, shows a priest, with the charming name of Nectar, redeeming a certain Felix from a woman called Adalgis, to whom he had been enslaved by judgement after killing her son, for 30 *solidi*.⁷⁷ It is impossible to tell how long after the enslavement this redemption took place: perhaps immediately, perhaps not.

The link between the temporariness of penal enslavement and ensuring compliance is made entirely explicit in one extraordinary case preserved in the archive of Otero de las Dueñas in Northern Spain, dated June 1022.⁷⁸ A man named Enego, with the help of his mother Auria and his brother Velasco, absconded with a woman named Midona, a chambermaid (*cubileira*) of Count Fruela Muñoz. The document says they 'stole' her by *raptus*, a general category which could include anything from rape to consensual elopement; in this case it was clearly consensual.

⁷⁴ León III, no. 561.

⁷⁵ *Sant Cugat* no. 218; Kosto, *Making Agreements in Medieval Catalonia*, pp. 48–9.

⁷⁶ The clause for Sentemir's case is *Liber iudiciorum* VII, 5, 2, where it is in fact stated that enslavement should be the punishment only for *humiliores*, whereas *potentiores* would forfeit a quarter of their property. For other examples of penal enslavement, see also Hinojosa, *Documentos*, doc. XV; *Catalunya Carolingia* IV, part 2, no. 706; *Celanova* I, no. 347; see also Chapter 4, n. 62. On the persistent influence of Visigothic law in ninth- and tenth-century dispute settlements in Spain, see Zimmermann, 'L'usage du droit wisigothique'; Collins, "*Sicut lex Gothorum continet*".

⁷⁷ *Catalunya Carolingia* IV, part 1, no. 392.

⁷⁸ *Otero de las Dueñas* nos. 150–1.

The count's men pursued them, raising the cry of *raptus*, and caught them, after which Enego recognized his guilt. Proceedings were then adjourned so the judges could look up what Visigothic law had to say on the matter. This, it turned out, was that if a free man took a free woman by *raptus*, he should be enslaved to her and her family, but that under no circumstances should the issue be settled by marriage.⁷⁹ Three days later, however, when the court convened again, Midona asked not to be separated from Enego, with the result that the couple were both enslaved to the count and his wife Amuna. Crucially, a provision was added to the charter to the effect that if the count and his wife died before them, they and their future children would regain their full freedom. This provision would be annulled if they tried to escape, in which case they and their children would become exactly like the 'slaves by birth' (*servi originales*) of Fruela Muñoz and Amuna, and would remain so forever. This case is remarkable on a number of counts, but is most telling for our purposes in the clear sense it gives that there were *servi* and *servi*, and that such nuances in the social practice of unfreedom could be framed as both incentives and sanctions, securing at one stroke a more acceptable outcome for the enslaved and greater assurances of their future compliance for their new lords.

By the time we find evidence for social practice, then, Spain does not seem so different from the rest of Europe after all. What later documents do not seem to turn up in any quantity, however, are either self-sales or self-gifts. The odd tantalizing example suggests it was an option, much as elsewhere: in one surviving case from Western Iberia, from 956, a couple gave themselves to a priest on the understanding that they would live and serve in his house 'as good people do' (*sicut facent homines bonos*).⁸⁰ This parallels both the shift towards self-gift and the highly positive, honourable emphasis placed on it in the Marmoutier documents. But as with the Visigothic formula of self-sale for the earlier end of our chronological spectrum, this is not much to go on. Some tenth-century documents of donation to religious institutions in Northern Spain, essentially from Castile, sometimes include the 'body' of the giver, in a way reminiscent of the more prosperous self-givers from Lucca: this way of phrasing the gift could cover a wide variety of arrangements, including the joining of a monastery as a monk or, for socially weaker people, relationships that had more to do with patronage—and probably this ambiguity was once again the point. Some of the donors seem to have been after legal or material protection, especially if they were single women or in old age.⁸¹ But although the motivations seem very similar to those of other self-givers we have met, the emphasis in these documents is much more placed on the gift of land, ignoring any corresponding outcome in terms of legal status. So far as the surviving record suggests, this phraseology was also never used in donations made to laypeople in order to secure their support and patronage. Although there are Spanish

⁷⁹ The text quoted in the charter is from *Liber iudiciorum* III, 3, 1, but the reference given is to III, 3, 2, and this latter clause, which deals with a couple who wish to stay together, is indeed more to the point.

⁸⁰ *Portugaliae Monumenta Historica* no. 70 (p. 40).

⁸¹ Davies, *Acts of Giving*, pp. 52–61. For an example from 1171: *Sobrado* I, no. 524; Fernández Ferreiro, *Servos e escravos*, p. 102. See also Orlandis Rovira, 'Traditio corporis et animae'.

documents made out to laypeople displaying similar concerns to those which sometimes led to self-sale in Francia (obtaining material support, food and clothing, and the expectation of future benefaction), these generally featured in simple gifts of land, rather than of oneself or one's status.⁸² These gifts did not always involve all of the donor's property; they were not always meant to create a lifelong relationship; and donors in these cases could be aristocrats as well as peasants. As Wendy Davies has convincingly argued, these texts belong to the realm of 'light-touch' patronage, epitomized by the use of the ambiguous term *gubernare*, which could mean 'to rule', but also 'provide' and 'support': it seems these agreements were generally very light touch compared to Francia, and required far fewer explicit commitments.⁸³

Documents involving entry into someone's service seem deliberately to avoid using the language of unfree status, though they could mention it as a hypothetical punishment for failure to comply with the terms of the contract.⁸⁴ Although, then, we find in these charters very similar needs, and similar language, to those found in Frankish documents of self-sale and self-gift, they established a different relationship, and did not bring personal legal status into the mix. Tenth-century Spanish documents do not show quite the same interest in disposing of one's legal status to establish new relationships, or develop old ones, as in Francia or Italy—and this despite plentiful documentation by early medieval standards. This does not mean that legal status in general had become redundant, but simply that it was not exploited as much to achieve this particular end. Perhaps unfree status was considered too socially dishonourable to make it a worthwhile bargaining chip for the more prosperous members of peasant society. Tenth-century Spanish lords also seem not to have achieved the same level of domination over smaller peasants as in Francia, so they may not have been in as good a position to demand it in exchange for support.⁸⁵ Penal enslavement, by contrast, had a much longer career in Spain than in most other regions of Europe, stretching far into the later middle ages; the crucial difference was that, from the *reconquista* onwards, it became only applicable to Muslims living in Christian kingdoms.⁸⁶

⁸² Documents to laypeople: Davies, *Acts of Giving*, pp. 149–63, arguing against the idea that this represented any sort of formal 'commendation' to a patron. For the latter interpretation, see Sánchez-Albornoz, 'Las Behetrías'; for a critique, see Estepa Díez, *Las Behetrías Castellanas*, vol. 1, pp. 41–5; further references in Davies, *Acts of Giving*, p. 150, n. 43.

⁸³ Davies, *Acts of Giving*, p. 154.

⁸⁴ *Portugaliae Monumenta Historica* no. 144 (from 985): a couple entering someone's service agree to be enslaved (*incurbatus in seruitio uestro sicut et alios serbos ariginales*) to their contractor if they try to leave. No. 164 (from 991) is another example of entry into what seems to be perpetual service, though without any mention of changed legal status. At the other end of the chronological scale, see also no. 561 (from 1178: I am grateful to André Marques for this reference, and for correcting the date given in the edition), in which someone gives his body and his inheritance to a monastery in exchange for food and clothing, in a way highly reminiscent of the sort of agreement found in Francia (see above, pp. 49–57).

⁸⁵ Davies, *Acts of Giving*, p. 217.

⁸⁶ On debt slavery for Muslims in Aragon: Phillips, *Slavery in Medieval and Early Modern Iberia*, p. 29; Carlos, *The Victors and the Vanquished*, pp. 223–4 (also p. 233). For Catalonia: Meyerson, 'Slavery and the social order'.

ANGLO-SAXON ENGLAND

The source base from Anglo-Saxon England, like Spain's, is rather patchy on these issues, but penal enslavement also features rather prominently.⁸⁷ There is a marked difference in emphasis between the earlier and the later Anglo-Saxon period. Early laws seem to take a particularly harsh reading of penal enslavement: a late seventh-century Kentish law suggests that it was at least sometimes used as a means of physically removing a wrongdoer from the community, by selling him 'across the sea'.⁸⁸ This would presumably have made redemption completely impossible. Selling the weakest among the penally enslaved may still have happened in the eleventh century, by the time Wulfstan of York was writing his *Sermo Lupi ad Anglos*. The 'poor men' left unransomed that Wulfstan worried were being sold abroad were explicitly the 'innocent' ones (*unforworhte*), implying that he may, by contrast, have regarded the selling of criminals too poor to redeem themselves from penal enslavement with more equanimity—effectively drawing a line between the deserving and undeserving poor.⁸⁹

This level of harshness is echoed in another late seventh-century law, this time from the code of the West Saxon king Ine, according to which a thief who stole without the knowledge of his wife and children should pay 60 shillings, but if his wife and any children above the age of ten knew of his actions, all of them should be enslaved.⁹⁰ This law was amended in the early eleventh century, when Cnut gave more precise directions for ascertaining knowledge: the wife was guilty only if the stolen goods were found in places to which she kept the keys, such as her storeroom, her chest, and her coffer, but not in the rest of the cottage, on the understanding that a wife could not stop her husband from bringing home anything he liked. Cnut also tried to limit the exposure of very young children to penal enslavement with their parents, saying that 'those who have never tasted food' should not count as having benefited from the theft.⁹¹ This legislation was almost certainly drafted by Wulfstan, echoing one important reservation against penal enslavement abroad featured in the *Sermo Lupi*, when it involved 'infants' sold away 'for petty theft' (presumably committed by their parents rather than themselves).⁹²

On the whole, however, Anglo-Saxon laws, whether early or late, do not give the sense that the wider kin group would necessarily have been much affected by the penal enslavement of one of their members. Some laws, in fact, suggest that family

⁸⁷ Pelteret, *Slavery in Early Mediaeval England*, pp. 120–3.

⁸⁸ Wihtried 26 (Attenborough, *Laws*).

⁸⁹ Stefan Jurasinski has rightly drawn attention to the *unforworhte* in this passage and noted its significance, but he interprets the implied 'guilty' ones as criminal slaves rather than connecting this to penal enslavement (Jurasinski, 'The Old English penitentials and the law of slavery'; Jurasinski, *The Old English Penitentials and Anglo-Saxon Law*, pp. 98–9). This passage, however, only mentions *earme men*, so criminal slaves in particular are unlikely to be what Wulfstan has in mind. This does not detract from Jurasinski's more general point about Wulfstan's conservative attitude to slavery, which remains convincing (*contra* Pelteret, *Slavery in Early Mediaeval England*, pp. 89–101).

⁹⁰ Ine 7.1 (Attenborough, *Laws*).

⁹¹ II Cnut 76.1–3 (Robertson, *Laws*).

⁹² Wulfstan, *Sermo Lupi ad Anglos*, p. 262, lines 45–8; tr. Whitelock, *English Historical Documents*, p. 930.

groups, left to their own devices, might prefer to hedge their bets in deciding whether to redeem a kinsman at all. Another law of Ine insisted that kinsmen could only claim compensation for the killing of an enslaved relative within one year of their enslavement; if he was killed after that and they still had not redeemed him, they would receive no compensation.⁹³ There was thus a limit to how long one could expect to keep some sort of stake in enslaved relatives: while a year seemed a reasonable amount of time to allow a kin group to get their act together, a longer period implied that they were stalling and waiting until it became clear whether or not the relative in question really did have a useful role to play within the group. This ‘wait-and-see’ approach is likely to have applied particularly to the young. A tenth-century law of Æthelstan insisted that thieves under fifteen years of age should not be killed, but that their relatives should stand surety to the full amount of their wergeld on the assurance they would not commit any other crimes; if their relatives failed to redeem them, the thieves were to swear they would not commit any other crime and go into penal servitude until the wergeld was paid.⁹⁴ How long such a boy might have to wait may well have depended on how many other heirs might be produced in the meantime. All this suggests that families could be readier than one might expect to accept penal enslavement as a temporary measure while making up their minds whether this particular kinsman was worth the money. The reference to their keenness to collect wergeld when their enslaved relatives were killed shows that their ideal scenario was one where they got to keep a level of association with their enslaved relatives for some purposes (collecting compensation) but not others (paying out compensation).

By the later Anglo-Saxon period, when the documentary record becomes more plentiful, it seems clear that penal enslavement involved similar expectations of temporariness to those found in Francia. This was not expressed through self-pledging or repayment, however, but instead through a preferential access to manumission. The choice for the granting of freedom lay very much with the owner, and was valued as a charitable gesture. For instance, the woman Wynflæd, in a mid-tenth century will, listed a number of men and women to whom she wished to grant freedom after her death, and went on to ask her children to free for the good of her soul any other penal slaves (*wittheow*) whom she might have left out, going out of her way to say she had enslaved them herself.⁹⁵ Highlighting her own part in their fate could be interpreted as a mark of contrition, if she felt she should free first those whom she had had a direct hand in enslaving; on the other hand, the list of names is so long that she could not possibly have enslaved them all as a successful plaintiff herself, even allowing for an exceptionally litigious personality. It is possible, therefore, that she was highlighting her role in their enslavement not out of guilt, but, on the contrary, because she was rather proud of it—if she had acquired them as a third party, as a charitable gesture. Reading this as an act of charity would not have conflicted with her decision only to free them at her death.

⁹³ Ine 24; see also II Edward 6, also denying wergeld to a penal slave’s relatives (Attenborough, *Laws*).

⁹⁴ VI Æthelstan 12.2 (Attenborough, *Laws*).

⁹⁵ Whitelock, *Anglo-Saxon Wills* no. 3, pp. 10–13; Sawyer 1539.

The choice to redeem at one's death people who had been enslaved specifically as a result of guilt, as opposed to those who had simply been born into unfreedom, may also have carried an added religious significance: it mirrored Christ's redemption of a guilty humanity through his own death, thus opening to it the possibility of salvation—a salvation which testators were of course hoping would be granted to themselves as well.⁹⁶ Several other Anglo-Saxon wills from the mid-tenth to early eleventh centuries, both lay and ecclesiastical, similarly go out of their way to highlight the freeing of penal slaves in particular.⁹⁷

The ability to recover freedom, or even to redeem oneself in the first place, did not necessarily go without saying, even in later records: an eleventh-century case from the Bodmin Gospels deals with the story of a certain Putrael, who was about to be enslaved to one Ælfric for an unspecified wrong. Although he clearly had the means to redeem himself 'in cash and kind', he had to plead with Ælfric's brother to intercede on his behalf before he was allowed to do this: allowing him to redeem himself at all was clearly being presented as a great favour, and every effort was made to make him understand that he had had a very close call. The publicity of his case, and the rituals involved, were presumably meant to enhance his humiliation, which was witnessed by a large number of important people, both lay and clerical.⁹⁸ Redemption as well as manumission, then, were presented as very much in the gift of the wronged party, or of the third-party buyer if there was one.

The expectation of temporariness may also have been part of the deal in cases of voluntary entry into unfreedom. It is impossible to tell, since only one piece of documentary evidence for self-sale survives from Anglo-Saxon England, a manumission in which a woman freed a group of people 'whose heads she took in exchange for food in those evil days'.⁹⁹ This may have been purely spontaneous,

⁹⁶ The concept of Christ's redemption in those terms was particularly developed by Augustine: e.g. *De Trinitate* XIII, 14, 18 (original sin had enslaved humanity to the Devil, and full freedom could be restored only through Christ: *De civitate Dei*, XIV, 11). The link between manumission and salvation could be made through Luke 6:37, *Dimittite et dimittimini*, 'Forgive, and you shall be forgiven', or in a closer translation, and more to the point, 'Release, and you shall be released', as cited in a Frankish manumission document, *Formulae Salicae Lindenbrogianae* no. 9 (Zeumer, *Formulae*, p. 273), echoed in the Pater Noster (*Dimitte nobis debita nostra sicut et nos dimittimus debitoribus nostris*). I am grateful to Thomas Charles-Edwards for this point.

⁹⁷ These are the wills of Bishop Ælfsige of Winchester (Whitelock, *Anglo-Saxon Wills* no. 4, pp. 16–17; Sawyer 1491); Bishop Ælfwold of Crediton (Sawyer 1492); Archbishop Ælfric (*Anglo-Saxon Wills* no. 18, pp. 54–5; Sawyer 1488); the woman Ælfgifu (*Anglo-Saxon Wills* no. 8, pp. 20–1; Sawyer 1484); the ealdorman Ælfheah (*Anglo-Saxon Wills* no. 9, pp. 24–5; Sawyer 1485); and the Ætheling Æthelstan (*Anglo-Saxon Wills* no. 20, pp. 56–7; Sawyer 1503). Æthelstan's *Ordinance on Charities* 1 ordered his reeves to free one penal slave every year for the good of his soul (Attenborough, *Laws*, pp. 126–7). The Synod of Chelsea of 816 had earlier ruled that people enslaved during the lifetime of a bishop were to be freed on his death (Haddan and Stubbs, *Councils and Ecclesiastical Documents* III, pp. 579–84, chapter X). The practice was obviously not systematic, and some penally enslaved persons could be transferred with land they were living on: e.g. Sawyer 1285.

⁹⁸ Förster, 'Die Freilassungsurkunden des Bodmin-Evangeliars', p. 93, no. 33; Pelteret, *Slavery in Early Mediaeval England*, p. 151.

⁹⁹ This text, dating from around 1050, is in the Durham *Liber Vitae* (BL Cotton Domit. A. vii, at fol. 43); *Cartularium Saxonicum* III, p. 358, no. 1254 (= *Manumission* \$6.1 in Pelteret, *Slavery in Early Mediaeval England*). For a translation: Whitelock, *English Historical Documents* 1, no. 150, pp. 610–11.

but it could also have been part of the original understanding that these self-sellers or self-givers would have priority if she decided to make a manumission. The text insists that all their children ‘born and unborn’ would be free, and this may have reflected an expectation that this arrangement should not spill into future generations.

Although, then, Anglo-Saxon England presents a slightly different symbolic treatment of the enslavement of free persons, it is far from being a misfit in a general European context. A sign of this relatively comfortable fit with wider European patterns may be found in the fact that the early twelfth-century *Leges Henrici*, a Latin translation of an assortment of Old English laws, absorbed several elements from Frankish capitularies in relation to this kind of issue, such as the one cited above concerning pledged persons who went on to commit further wrongs. In England as elsewhere, as the *Leges Henrici* observed, people could become slaves either by birth or by ‘accident’, the latter involving a panoply of possibilities including sale, penal enslavement, self-gift, as well as ‘other classifications, all of which we may wish nevertheless to be included in that one category of slavery’.¹⁰⁰

IRELAND

Different regions of Europe, then, developed forms of entry into unfreedom which could differ widely in their symbolic treatment, while still ultimately responding to similar concerns in practice. What all of them had in common was that, regardless of the extent of their reliance on (or lip service to) the Roman legal tradition, none of their priorities relating to the enslavement of free people, whether on a symbolic or a practical level, had much to do with Roman precedents. To emphasize this point, I will end this chapter by looking briefly at Ireland, which had never been part of the Roman Empire, and developed a very different learned legal tradition. In many ways, however, the key concerns relating to the treatment of enslavement in the rest of Europe still had more in common with the Irish material than they did with Roman law.

One important conceptual difference is that in Ireland, free people who had become unfree were treated as a distinct category: this is the *fuidir* (plural *fuidre*), defined as a free man ‘gone into the seat of an unfree man’.¹⁰¹ In the virtual absence of any archival documents from this period, the evidence for this legal status (and, indeed, legal status in general) is limited to the law tracts. Irish laws, in contrast to English or continental ones, are very concerned with providing fleshed-out definitions, though these are often expressed in very obscure ways. The tract on

¹⁰⁰ *Leges Henrici Primi* 76, 3: *Serui alii natura, alii facti, et alii emptione et alii redemptione, alii sui uel alterius datione serui, et si que sunt alie species huiusmodi quas tamen omnes uolumus sub uno seruitutis membro constitui, quem ‘casum’ ponimus appellari...*

¹⁰¹ Thurneysen, *Irishes Recht I–II*, part II. *Uraicecht Becc*, p. 273. See the illuminating discussion of *fuidre* in Charles-Edwards, *Early Irish and Welsh Kinship*, pp. 307–36.

fuidre explains who these people were and how they had reached this status with a level of detail one could only dream about for continental and English law-codes. Downward social mobility is the dominant theme in its account of origins. The category included a wide range of different people, most of whom were never brought together in this way anywhere else in Europe: outsiders adopted into a kindred under terms of dependence; male foreigners marrying into a kindred; children of an unrecognized union; children of mixed unions, with a free or noble father and a slave mother; or those redeemed from the death penalty. Penal enslavement was clearly practised in Ireland, though it has to be said it is usually mentioned in sources without being explicitly connected with *fuidir* status in particular.¹⁰²

This one category, then, gathered under a single heading all of the people we have been discussing so far, from self-sellers to the penally enslaved, and then adds a lot of others to the mix. At the same time, it did not quite assimilate any of them to a slave proper (*mug*). *Fuidir* status seems to have been a way for initially free outsiders to join a kin group under terms less favourable than those which would normally have applied to a free member of that kin group (Thomas Charles-Edwards uses the phrase 'defective kinship' to describe this).¹⁰³ The category included people who had once been free, but had had to enter arrangements which denied them full access to or control over the resources of the household they had joined. This explains their assimilation to slaves by analogy: like slaves, they were included, and participated, in household production, without having the right to draw on its resources or enter legal contracts independently.

It seems the heritability of the condition also varied according to the precise meaning of the relationship outlined at the start. *Fuidir* status seems to have functioned as a form of generational transition: after three generations of *fuidre* had served the same lord, their children then fell under *senchléithe* status instead—about which unfortunately hardly anything is known, though it is clear it involved from then on an explicitly permanent and inherited attachment to the same lord. There may have been no other practical difference between the two statuses.¹⁰⁴

¹⁰² On penal enslavement in Ireland in general, Kelly, *A Guide to Early Irish Law*, pp. 97–8 and 215–16. For penal enslavement outside law tracts: Meyer, *The Instructions of King Cormac Mac Airt*, p. 7 on the role of the king: 'let him enslave criminals, let him set free the innocent' (cited in McLeod, 'Parallel and paradox', p. 35). For a somewhat unclear case, see Binchy, 'The Saga of Fergus Mac Léti', p. 39; Stacey, *Dark Speech*, p. 69. The character of Librán in the *Life of Saint Columba* may have been a *fuidir*, but his case involves someone being redeemed by one of his family, and so is a case of downward reassessment of his position as part of the same kindred he had belonged to before: Adomnán of Iona, *Vita Columbani*, II, 39. This was almost certainly a member of his own family rather than the victim's, though the text unfortunately does not make this completely unambiguous; on this story, see Charles-Edwards, *Early Irish and Welsh Kinship*, pp. 317–19, counting him as a *fuidir*. For penal enslavement in Wales, see the example of the thief in the *Vita Sancti Cadoci* 33, pp. 94–7, and a case from the Llandaff charters, involving a rich man called Tutuc, who had killed a swineherd in anger after his pigs had trespassed on his property: Evans, *Book of Llan Dav* no. 127, p. 127 (fol. 37); possibly also no. 218, pp. 218–21 (fol. 65–6); see Davies, *Wales in the Early Middle Ages*, p. 64; Davies, *An Early Welsh Microcosm*, pp. 43, 167 and 180–1.

¹⁰³ Charles-Edwards, *Early Irish and Welsh Kinship*, p. 311; for the phrase, p. 316.

¹⁰⁴ *Crith Gablach*, lines 326–7 (p. 296); Charles-Edwards, *Early Irish and Welsh Kinship*, p. 309, Kelly, *A Guide to Early Irish Law*, p. 35.

In other cases, though, the transition went in the opposite direction, towards fuller integration into the kindred—above all in the case of an outsider marrying a free woman of the kin group, whose children would obviously not have counted as *fuidre*.

For *fuidre* in particular, the main determining factor for living conditions seems to have been rooted not in any differentiation between the possible causes for their ‘defective kinship’, but on the material distinction between the *fuidir* with five ‘kin’ holdings (that is, land held irrespective of a grant by his lord) and the *fuidir* without.¹⁰⁵ The difference is explained in laws as the difference between feeding and being fed by the lord. This effectively corresponds to the difference between relatively independent, if unfree, tenancy, and much more comprehensive direct household dependence. Their actual eventual position in relation to their lord, and which subdivision of *fuidir* status they would fall under, thus depended essentially on what they had been able to bring to the table (here quite literally) when joining the household. If the newcomer had a good deal to contribute to the household when entering it, he might not even be defined as a *fuidir* at all, but be adopted straightforwardly as a son, on equal terms with the rest of the kin group; if he had less to contribute, he would be allowed in as a higher, more independent type of *fuidir*; if he had virtually nothing to offer apart from himself, he would become the most heavily dependent type of *fuidir*, the *dóerfuidir*, unable to leave his lord unless specifically freed for this purpose.¹⁰⁶

We also find in Ireland some people (called *manach*, pl. *manaig*) who gave themselves to religious institutions for a variety of reasons, such as debt or penance.¹⁰⁷ In some respects they have much in common with our continental self-givers (for instance, in encouraging a degree of confusion between their own form of affiliation and a true monastic vocation), but they did not have their condition identified as unfree, and the language used in connection with them suggests a studious avoidance of any overlap with the language of slavery—perhaps because the loss of honour involved would have made this a totally unacceptable interpretation of the relationship. This pointed refusal to label these persons as unfree, even when the material difference between them and people who were unfree seems elusive, suggests a need for tact, which is also reflected in the multiplicity of fine grades of status at the edges of freedom and unfreedom found in Ireland (see Chapter 4).

All this is strikingly reminiscent of the Frankish continuum of agreements that set up hierarchical relationships involving service. These, as we have seen, tapped into common concerns for material support and protection, without necessarily leading to the same legal status: those who had less to offer ended up unfree, while those who had more could hope to retain their status and give up something else instead. In the end, then, Ireland presents more similarities with the rest of Europe in this area than one might have expected. Ireland shared with the rest

¹⁰⁵ Charles-Edwards, *Early Irish and Welsh Kinship*, pp. 319–24.

¹⁰⁶ Charles-Edwards, *Early Irish and Welsh Kinship*, p. 340.

¹⁰⁷ Doherty, ‘Some aspects of hagiography’, pp. 315–22; Kelly, *Early Irish Farming*, pp. 452–5; Hughes, ‘The church in Irish society’, pp. 313–14.

of Europe the mobilization and disposal of personal legal status in exchange for material support;¹⁰⁸ the scope for negotiation based on different material circumstances, and a range of different possible terms; and also a frequent sense of a distinction between people who had once been free and those who had been born unfree—expressed elsewhere through temporariness and/or highly negotiated agreements, and in Ireland through the attribution of a distinct status separate from that of full slaves.

CONCLUSION

The main difference in approach to entry into unfreedom between Ireland and other European regions may be that in the Irish case the continuum between all these different options, from the best to the worst possible outcomes, was given symbolic recognition through the attribution of a common status, albeit one with many internal variations. By contrast, in Francia, along with the rest of Europe, this continuum was not made explicit in laws, but has to be pieced together on the basis of individual documents and formulae. This is because entry into unfreedom in European regions outside Ireland participated in not one, but two distinct symbolic systems, each of which was used to achieve different things. The first stressed the radical opposition between categories of 'free' and 'unfree', and presented society as divided in an absolute way between these two deeply polarized statuses. The second was used for defining hierarchical relationships of lordship, service, and dependence, and was therefore inherently relational rather than absolute. This laid out a common ground for all manner of different agreements involving comparable practical, socio-economic circumstances, and connected them through the use of a common symbolic system of representation stressing personal qualities and relative social positions, such as lordship, poverty, piety, reward, and service. Although this second, relational system of representation *might* match the first, free/unfree divide in some cases, it did not have to, and it operated much more on a continuum.

What we see during most of the early middle ages is a constant interplay and crossover between these two symbolic systems. The trade-offs between the two may best be understood as transfers between different forms of capital in Pierre Bourdieu's sense: legal capital on the one hand, socio-economic capital on the other.¹⁰⁹ In most cases it seems that legal status was used to lend a particular interpretation to the socio-economic relationship: a qualification providing an added layer of meaning, rather than a direct result, or a cause, of the relationship being established. Many different kinds of trade-off might be made between these two

¹⁰⁸ See also references in annals to the selling of children in cases of famine (though it is very unclear whether this would have been into *fluidir* status or a more fully unfree one): *Annals of Ulster* s.a. 964 and *Chronicon Scottorum* s.a. 1116, cited in Eska, 'Women and slavery in the early Irish laws', p. 31.

¹⁰⁹ Bourdieu, *La Distinction*. On the idea of a 'legal field', see also Bourdieu, 'La force du droit' (though much of the content of this discussion does not really apply to the type of legal authority found in early medieval Europe).

fields, which could explain the profoundly opportunistic use of the attribution of unfree status during this period, and the number of different functions it could fulfil. From the mere provision of food to fairly tightly defined labour agreements, or simply the securing of legal representation, legal status could be used as a proxy for the creation or annulment of many different sorts of ties. The chief motive could be inclusion into a hierarchical relationship with a lord, or, in the case of penal enslavement, the main point could be exclusion, even if only on a temporary basis, from other family and community ties after these had been sorely tested. The end of our chronological bracket, in the eleventh and twelfth centuries, undoubtedly shows some broad continuities with earlier medieval practices, but with a somewhat less wide range of functionality: by that point, entry into unfree status seems to have settled more squarely along one particular groove, chiefly involving negotiations over conditions of land tenure.¹¹⁰

¹¹⁰ On this, with particular reference to Scotland, see Taylor, 'Homo ligius', with several later examples of entry into unfreedom (p. 95 and pp. 99–100). For the possibility of voluntary entry into unfreedom in the thirteenth century in England (though mentioned in the context of subsequent disputes and so perhaps tendentious): Hyams, 'Proof of villein status', p. 725.

3

Freedmen and Manumission

Manumission had been an important and very eye-catching aspect of Roman practices of slavery. In the classical Roman world, it was overwhelmingly presented as a reward for faithful service, and is generally understood by historians as an incentive for slaves to work well and efficiently—the carrot in a ‘carrot and stick’ model of incentives and sanctions.¹ It also seems that manumissions were unusually common under Rome in comparison with most other slave societies.² This, however, went hand in hand with an equally unusual level of intensity in the continued personal relationship between ex-master and ex-slave which was expected to follow manumission—an intensity and an expectation apparently undiminished by the surprisingly low level of formal constraint imposed on freedmen in classical Roman law, which on balance, as Henrik Mouritsen has put it in a recent study, ‘provided the patron with relatively few means of coercing the freedman’.³ Ideologically, manumission in classical Rome was less transformative in itself than it was a retrospective recognition of the fact that, through faithfulness and loyal service, a slave had managed to transcend his or her servile condition and merited entry into a new kind of association. The aim of manumission, then, was not independence for the ex-slave, but the transformation of a dependence built on legal obligation into one that was based instead on friendship, gratitude, and mutual trust, transcending the need for legal compulsion: it strengthened rather than

¹ As one would expect, exactly how frequent an occurrence manumission might have been is a source of considerable debate, since the available evidence largely resists quantification. In one radical reading, Alföldy argued that manumission could be expected by virtually all slaves, effectively turning Roman slavery into a merely temporary, transitional state, at least in an urban household setting: Alföldy, ‘Die Freilassung von Sklaven’. This interpretation has not been widely accepted; for an extended critique, see Mouritsen, *The Freedman in the Roman World*, pp. 131–59.

² Mouritsen, *The Freedman in the Roman World*: manumission was certainly not ‘universal’ nor ‘automatic’ (p. 139), but nevertheless had a very high incidence by the standards of most slave societies (p. 140: ‘manumission was both very common and very selective’).

³ Mouritsen, *The Freedman in the Roman World*, p. 57. All Roman patrons had the right to expect *obsequium* from all their freedmen, but in classical Roman law the term implied respect and deference, a general and diffuse undertaking to do no harm to an ex-master or his family, more than it referred to specific duties; in this sense it remained in the realm of ‘informal regulation’ (Mouritsen, *The Freedman in the Roman World*, p. 58) and was very unlike the meaning of the term as used by early medievalists to refer to the legal obligations of early medieval freedmen. *Operae* (continuing obligations promised before manumission and confirmed immediately afterwards, measured in units equal to a day’s work) could be considered a more legal, contractual form of obligation, but it is unclear how widespread these were in practice; Mouritsen sees them as applying essentially to cases with less than usual continuity in the economic and personal relationship, or where they were owed to someone other than the patron himself—for instance, heirs in testamentary manumission (pp. 224–6).

diminished the bond between master and dependant. Like other forms of gift-giving, it took on significance and created a stronger social bond precisely *because* it had uncertainty built into it, and the risk of ingratitude.⁴ The voluntary foregoing of legal means of compulsion by the ex-master was in many ways what lent manumission its full symbolic value.

Nothing could look further from the situation of early medieval freedmen as it is presented in the existing historiography. Judging by early medieval laws and documentary evidence, the meaning of manumission seems to have changed beyond recognition. It now often came with explicit and sometimes heavy service and labour obligations specified in the terms of the manumission. It covered rather impersonal relationships as well as personal ones, with mass manumissions, particularly in wills or in gifts of land, covering *all* rural unfree dependants living on a particular estate, often without even giving names. Such acts of manumission clearly did not stem from subtle changes in the nature of a one-to-one relationship, in which personal contact was key; and since their blanket, catch-all quality meant that such dependants were freed largely indiscriminately, it is difficult to imagine it, as in Roman times, as a 'carrot' rewarding good service (by contrast, the lack of scope for personal contact had meant that rural slaves were rarely manumitted in the Roman era).⁵ The condition of freedmen seems to have become frequently hereditary, rather than lasting for only one generation, and their service could also be transferred to a patron other than their original owner. All this makes early medieval freedmen look less like freedmen than like just another, perhaps only slightly privileged, type of unfree dependant. Their conditions of life past the point of unfreedom were determined and enforced through the attribution of a new legal status, rather than transcending legal compulsion through emotional and personal bonds. In other words, the bond between such freedmen and their former owner seems much stronger legally, but much weaker on a personal level. All this suggests a significant change in most respects from the Roman situation.

Marc Bloch thought that the increased scope for the continued intensive exploitation of freedmen in the early middle ages encouraged lords to manumit more often: manumission had already long been regarded as a pious act, and lords could now engage in it while incurring only minimal economic losses. As a result, manumissions, just as they came to mean less and less, came to be performed more and more, depleting the ranks of the properly unfree. In Bloch's view, manumission 'with duties' (*cum obsequio*) contributed to the creation of a new 'servile class', ultimately so profoundly subjected it could no longer be distinguished in any material sense from straightforward unfreedom, and reproduced hereditarily as well as through new manumissions. It was this new class which would eventually become merged with downwardly mobile free peasants to create the serfdom of the

⁴ Bourdieu, 'L'économie des biens symboliques', p. 177.

⁵ On the rarity of manumission of rural slaves in both classical and late Roman times: Mouritsen, *The Freedman in the Roman World*, pp. 198–9; Wiedemann, 'The regularity of manumission', p. 163; Harper, *Slavery in the Late Roman World*, pp. 243–5.

twelfth century.⁶ Framed like this, freedmen and manumission look like a crucial piece in the puzzle of the transition from slavery to serfdom.

Acts of manumission survive in relatively low numbers in the early medieval documentary record. Manumissions have therefore mostly been identified by historians, or their occurrence deduced, from a wide range of different sources: laws; formularies; wills and testaments; and above all the terminology of land grants and estate surveys, often based not only on the use of the word *libertus* (the classical Latin word for 'freedman'), but also of other, less clear category terms thought to have originally denoted manumitted persons (such as Italian *aldii*, or Frankish *lidi* and *colliberti*).⁷ Is it possible to see, running through all these sources, a convergence towards a particular 'hardening' of the terms of manumission? More fundamentally, why did people manumit their unfree dependants at all? Most of the historiography has focused on the consequences of manumission (or lack thereof), to the detriment of motivation. But explaining the popularity of manumission as the result of its growing meaninglessness in practical terms seems insufficient as an explanation: rather than encouraging people to engage in it, it could equally well have made it irrelevant. The differences between early medieval freedmen and Roman ones suggest that people were using manumission to fulfil new purposes. Piety was clearly one relevant concern for manumitters, but it is too generic to be capable of accounting either for the particulars of every situation or for the development of distinctive regional patterns. I will argue that the motivation for early medieval manumissions did include the formation and cultivation of personal relationships and connections—but with an important innovation, in that the social connections that were being sought could sometimes have relatively little to do with the freedmen themselves, and instead be aimed at the person or institution who was to become their patron.

MANUMISSION IN LATE ROMAN LAW

As we saw in the preceding chapter, there was very little linking late Roman attitudes to self-sale and penal enslavement to their early medieval counterparts. The same could be said about manumission. Although the restricted early medieval understanding of the rights of freedmen has often been linked to developments in late Roman law, this may be something of a red herring.⁸ Developments in late Roman laws dealing with freedmen, from Constantine onwards, went in two apparently

⁶ Bloch, 'Comment et pourquoi', pp. 41–3.

⁷ Bloch interpreted all these terms as corresponding to subjected freedmen: Bloch, 'Les colliberti', pp. 231–8.

⁸ Stefan Esders, for instance, bases his argument for continuity on the idea that the three main distinctive traits of later manumission, the payment of a yearly *census*, marriage restrictions, and inheritance dues (corresponding exactly to Bloch's own tell-tale signs of serfdom, *chevage*, *formariage*, and *mainmorte*), were in some way present in late Roman manumission: Esders, *Die Formierung der Zensualität*, pp. 30–2. From a more late antique perspective, Barschdorf, *Freigelassene in der Spätantike*, also envisages continuity, but stresses the diversity of freedmen as a group in both late antiquity and the early middle ages.

contradictory directions. The first tended towards the attenuation of the distinction between freed and free statuses. The granting of ‘full’ manumission was facilitated through a simplified procedure, allowing it to take place in a greater range of venues, including churches.⁹ Lesser or partial forms of freed status (such as freed status granted informally, which left freedmen under greater control from their master) were gradually phased out.¹⁰ In the sixth century Justinian eventually abolished all distinction between freedman and free citizen, declaring that ‘we would much rather our empire was populated by free people than by freedmen’.¹¹ At the same time, the second, opposite trend in late Roman law was to make freedmen’s position much more vulnerable: Constantine gave patrons substantially greater legal recourse against freedmen than had been possible in the classical period, by allowing revocation into unfree status for ‘ingratitude’.¹²

This paradoxically double-edged evolution is probably best explained as a compromise between the objectives of the late Roman state and those of its propertied elite. The late Roman and Byzantine state continued to present itself as a guarantor of freedom, status, and property, and tended to seek to extend such rights to freedmen too; on the other hand, since this tendency clearly threatened the control of ex-masters, the greater revocability of this freedom became a necessary trade-off for it, and helped to reassert the control of patrons on a different basis. Although late antique laws on freedmen can therefore seem much more oppressive, the new legal recourse they offered did not necessarily give ex-masters an especially stronger hold than the one they had previously enjoyed through the more personal, social, and economic pressures characteristic of earlier Roman manumission. Rather, it may

⁹ This was *manumissio in ecclesia* (*Codex Theodosianus* IV, 7, 1; Justinian, *Codex* I, 13, 1–2, dated 316 and 321). One should not overestimate the importance of this innovation—as Harper puts it: ‘With manumission in the church, the state did not promote liberation; it found a willing and able subcontractor for this arena of conflict-ridden social practice’ (Harper, *Slavery in the Late Roman World*, p. 485). Esders, ‘*Manumissio in ecclesia*’, ascribes more significance to it, though mostly in terms of long-term unintended consequences.

¹⁰ New legislation, in a bid to move towards fewer different categories and a diminishing of grey areas, turned Junian Latins (which included slaves who had been freed more informally, or had been freed before the age of thirty) into an increasingly obsolete category: Corcoran, “‘Softly and suddenly vanished away’”.

¹¹ Justinian, *Codex* VI, 4. Justinian, *Novel* 78 (from 529) ruled that freedmen should become full Roman citizens (Morris, ‘Emancipation in Byzantium’, p. 135); Theodore’s sixth-century *scholia*, included in the *Basilica*, insisted there was no difference between a free man and a freedman: *Basilicorum libri LX, Series B: Scholia*, vol. VII, XLV, 2, and XLVIII, 10 (Hadjinicolaou-Marava, ‘Recherches sur la vie des esclaves’, pp. 102–3). The tendency to grant freedmen more rights continued later on in Byzantium: Leo VI ruled that slaves who had not yet been freed but were going to be so by agreement or testament had to be allowed to make a will independently (*Novellae de Léon VI le Sage* no. 37).

¹² Ingratitude was not defined any more closely than in earlier Roman law, and seems to have included potentially any demonstration of disrespect or hostility. Mouritsen, *The Freedman in the Roman World*, pp. 55–7 on *revocatio in servitutem* as a post-classical, specifically post-Constantinian, phenomenon; Harper, *Slavery in the Late Roman World*, pp. 487–9; Sargenti, ‘Costantino e la condizione del liberto ingrato’; Lenski, ‘Constantine and slavery’. For Constantine’s legislation: Justinian, *Codex* VI, 7, 2 pr. (dated 326); *Codex Theodosianus* IV, 10, 1 (later expanded in 423 so a freedman could also be re-enslaved by his patron’s heirs: IV, 10, 2; repealed in 447 as far as heirs were concerned: *Novellae Valentiniani* no. 25). Freedom revocable for ingratitude: Justinian, *Novel* no. 78, and later still Leo VI (*Novellae de Léon VI le Sage* no. 25, p. 100).

simply have been giving back to patrons with one hand (and in a slightly different form) what it had taken away with the other.

In this sense, late antique legislation is more likely to reflect broader tendencies in the development of imperial law-making than any profound change in the meaning of manumission. Adding penal sanctions for all kinds of wrongful behaviour in private life, including some which had up to then been an object of social rather than legal control, was a general tendency of late Roman law anyway, beyond issues of status—for instance in the areas of sexual relations or family life.¹³ The point of late Roman and Byzantine legislation on re-enslavement was not to mark out freedmen permanently as something less than free, but on the contrary to counterbalance a tendency to bring them closer and closer to the free from the point of view of all other rights. It was a way for emperors to achieve greater clarity on legal status and guarantee freedom in all its pristine unity, while at the same time preserving ex-masters' interests and maintaining the *status quo*.

This development is very different from what seems to have happened in the early medieval West. Recall into slavery, late Roman law's chief contribution in bolstering the power of patrons, seems to have been in fact surprisingly little exploited by early medieval ex-masters. The practice featured very rarely in documents, and is not usually referenced in early medieval law-codes.¹⁴ It seems, then, that early medieval manumitters did not find re-enslavement a particularly fruitful approach to the problem of control; if anything, they often went out of their way to specify in their documents that *on no account* could their freedmen be re-enslaved. Although their concerns (retaining power over their freedmen) may have been similar to those of late Roman patrons, they went about answering them in a different way. In this sense, at least in the West, late Roman legal developments were more of a dead end than a starting point.

ITALY

Lombard law worked a great deal of nuance into its treatment of different modes of manumission and different classes of freedmen, depending on the level of control their ex-master retained over them. All of these look very different from Roman freedmen, but the change was far from leading uniformly towards greater control by ex-masters. Rothari's Edict, issued in 643, in fact covered versions of freed status that could be much freer, as well as some that were much more subjected, than those that had been available in either classical or late imperial law. According to

¹³ Humfress, 'Civil law and social life'; Evans-Grubbs, *Law and Family in Late Antiquity*.

¹⁴ The exceptions are the Visigothic and Burgundian laws, which stuck most closely to Roman law. Recall into slavery for ingratitude features in the Visigothic councils: Toledo (633) c. 71 (Vives, *Concilios visigóticos e hispano-romanos*, p. 215). In secular law, temporary recall into enslavement for ignoring the service due to patron: *Liber iudiciorum* V, 7, 20 (Claude, 'Freedmen in the Visigothic kingdom', p. 169 and pp. 174–5). The Burgundian *Liber Constitutionum* XL, 1–2, insists on a trial before allowing re-enslavement.

the Edict, manumission could lead to three distinct case scenarios.¹⁵ The first made the freedman identical to a freeborn person in every respect; the second made the freedman fully free, but placed him under the legal responsibility of his ex-master; the third was much more constraining, and was the only one to lead to a legal status that was less than completely free.

In the first type, a manumittor could make his *servus* or *ancilla* ‘folk-free’ (*fulcfree*, a term also used for freeborn persons) and a ‘stranger’ to himself: *a se extraneum, id est haamund*.¹⁶ This last term, *haamund*, meant the freedman would no longer have a *mundium* (the legal responsibility a free man could possess and exercise on behalf of another person who, for whatever reason, could not act independently in court: that is, all free and unfree women, slaves, and some freedmen). This was the most formal type of manumission, and involved the freedman being handed over by his master to another free man, who then passed him on to another free man, who handed him to a fourth; this fourth man then took the freedman to a crossroad, gave him an arrow and a whip, showed him the four directions, and told him to go wherever he wished. The ex-master from then on was explicitly barred from ever being able to recall him into his service.

Alternatively, a slave could be made *fulcfree* and shown the four roads without being turned into a ‘stranger’ to the manumittor, in which case the latter retained the freedman’s *mundium*, and consequently a much stronger legal connection with him. In these cases, Rothari says, the freedman should ‘live with his patron as with a brother or other related free Lombard’. The implications of this type of manumission for any property held by the freedman are developed in the next clause, which gives us more hints as to who was thought likely to be made *fulcfree*. The expectation seems to have been that unfree people manumitted in this way would often be engaged in military service or skilled artisan work: Rothari mentions work tools and weapons as items of personal property such a freedman would automatically own. It is possible that this ownership of tools and weapons was only being cited as a badge of freedom, like the arrow and the whip, rather than necessarily as something practical.¹⁷ What does seem clear, at any rate, is that this type of manumission was only really being envisaged as applicable to freedmen who had a good deal to offer by way of marketable skills. The clause seems to assume that the freedman would not have any property to start with, but that he was expected to acquire some through gifts from his ex-master, described from then on as his *benefactor*. Importantly, it was also expected that he might obtain further gifts from people other than his original owner, either through military service to a royal official (*in gasindio ducis*), or in exchange for service to other lords (*privatorum*

¹⁵ Rothari 224, I–IV (*Leges Langobardorum*). Another scenario (II) involved slaves freed at the command of the king (perhaps in cases of confiscation, as in Liutprand 140?); the effect was the same as for the first type.

¹⁶ For *fulcfree* applied to a freeborn person: e.g. Rothari 216 (*Leges Langobardorum*).

¹⁷ *Handegawerc et harigawerc*: Rothari 225 (*Leges Langobardorum*). The use of Latinized Lombard words (as in the case of the whip and the arrow, *gaida et gisil*) and the reference to ‘the law of the Lombards’ (*secundum legem Langobardorum*) might suggest that these items signified free Lombard identity. Unfortunately, neither term is used elsewhere in Lombard laws, so it is impossible to know for sure. On the arrow, see Paul the Deacon, *Historia Langobardorum* I, 13.

hominum obsequium). This was mentioned because, should the freedman die childless and intestate, these people were to recover the gifts they had given him, as the ex-master would his. If he had children, however, they would inherit as normal; freedmen's sons did not have a *mundium*, and were to be fully legally independent.¹⁸

This style of manumission has enjoyed comparatively less attention from historians than the third, most restrictive type (on which more shortly), but in many ways it constituted just as much of an innovation. The idea of granting freedmen quite so much independence would probably have been even more surprising to a late Roman lawyer than the drive towards greater control identified by Bloch. Although Romans, like Lombards, sometimes used manumission for the express purpose of forming a family relationship through marriage or adoption,¹⁹ putting a freedman on a level footing with a brother or other close relative would certainly not have been considered an appropriate comparison in Roman law. The type of unfree servant imagined by Rothari sounds like an eminently useful sort of person to have in one's service; what could possibly have prompted some masters to turn their very best and most dependable unfree servants into 'strangers to themselves'? This type of manumission must only have been used for those servants who had a close enough relationship with their master to make him confident that they would respond to his gift of freedom with the appropriate counter-gift of loyalty and continued service, now freely offered. The *fulcfree* freedman, if he played his part correctly, was probably not expected to take full advantage of the total independence that was being granted to him; instead, this style of manumission was probably intended to heighten the risk of ingratitude by giving him a more open choice, thereby emphasizing the trust placed in him by his master. In this sense, full manumission could be read as a test of loyalty, which, once the freedman had passed it, doubtless played an important part in successfully establishing the relationship on a different footing, closer in nature to friendship or a kin relationship. A law of Aistulf makes it clear that failure on the part of 'fully free' freedmen to provide subsequent service was seen as a shameful transgression of the arrangement.²⁰

The reference to the possibility that freedmen, including those whose *mundium* remained in their ex-master's power, might serve other people and receive gifts from them could also point to a further possible function for this type of manumission: it may have allowed the ex-master to participate in and benefit from any future ties that his freedman might build with other patrons. Freedmen could be deployed as extensions of oneself outside the context of one's household much more securely than slaves, for whom deputizing outside their master's household posed much more complicated problems. Lending a slave into another's household would not only have risked jeopardizing the original master's claim of ownership

¹⁸ See also Liutprand 9–10 (*Leges Langobardorum*). Daughters, of course, would have a *mundium* simply by virtue of being female.

¹⁹ For instance, when freeing an *ancilla* in order to marry her, or when freeing a natural son born of an *ancilla* in order to give him the status of heir: Rothari 156 and 222; Liutprand 106 (*Leges Langobardorum*).

²⁰ Aistulf 11 (*Leges Langobardorum*).

over him (a problem which did not present itself in the case of *fulcfree* freedmen, since nobody owned them), but also created a potential hornets' nest regarding the attribution of liability in case of damage to the slave's person or of any wrongdoing he might commit. This may explain why the leasing of individual unfree dependants to other people does not seem to have been a very common practice during the early middle ages, as it would become later.²¹ The relationship between a *fulcfree* freedman and his ex-master, on the other hand, could not be jeopardized through service to other people, since it was founded no longer on a direct claim of ownership, but on gratitude and a personal connection, which could not be open to challenge in the same way. A slave might change masters definitively through a transfer, without formally owing his former master anything in particular; but a freedman who understood what was expected of him was forever bound in loyalty to the same ex-master, whoever he might end up working for. All this made freedmen much easier and much less dangerous than slaves to share with others, and to use as a conduit for building connections. Part of the motivation behind ex-masters' decision to manumit their most highly competent freedmen could thus have been to make their skills available to other members of the elite, in a bid to strengthen ties with important local or political figures (such as the high royal official, *dux*, envisaged by Rothari), and to create an association from which both ex-master and freedman might benefit.

All this means that, as under Rome, this type of manumission could only really have fulfilled its aims in the case of very close personal relationships. This is likely to have made it very selective in its application, though (again as for Rome) this does not necessarily mean it was not also common. How many of the military retainers of indeterminate status (*gasindi*) on record might have included freedmen of this kind? The fact that practically nothing distinguished them from freeborn persons means that they are very unlikely to be described as freedmen in surviving sources, since this information would have created no material difference. This, rather than necessarily rarity in practice, could explain why they tend to be less visible in the record than freedmen who had been manumitted in a more restricted way: these latter were still the object of continued interest in terms of property rights, and their precise status and situation were consequently very much worth recording in written documents. Some documentary examples involving 'fully freed' freedmen do survive, and this evidence tends to confirm the hypothesis that these freedmen were those who had the scope to be integrated into free society in a more obvious way than their less free colleagues.²²

²¹ One example does survive in which San Vincenzo al Volturno, in 988, leased three *servi* to Count Rainald of Marseilles for a duration of twenty-nine years, but such arrangements were clearly complicated (e.g. regarding pursuit if they fled): *Chronicon Vulturnense* no. 175; Feller, 'Liberté et servitude', p. 526. Leasing individual slaves for money, by contrast, was very common in the later middle ages: Blumenthal, *Enemies and Familiars*, pp. 39–40.

²² Francesco Panero has argued that 'full' manumissions, if anything, seem more prevalent than partial ones from the mid-eighth century onwards, and has mounted a strong argument against the idea that manumissions played much of a role in leading to a new kind of 'servitude': Panero, *Servi, schiavi e villani*, pp. 264–70, with examples. For a 'full' manumission made without a document, later issued retrospectively: *CDL* I, no. 109 (5 September 753). The practice is more visible in testaments:

This brings us to the final version of manumission presented in Rothari's Edict, which involved freedmen who seem much *less* free than their Roman counterparts. Rothari sums up all he has to say about those who were not made *fulcfree* in one sentence: 'he who wishes to raise his slave to the status of an *aldii* should not give him the choice of the four roads'.²³ Just as *servi* could be manumitted so as to become *aldii*, *aldii* could also be manumitted so as to become free.²⁴ They were therefore free from the perspective of slaves and unfree from the perspective of free people. This certainly does not mean that all *aldii*, as Bloch thought, were freedmen or descendants of freedmen: although Lombard laws typically deal with them on a very similar basis, for instance with respect to compensation values, they do distinguish consistently between *aldius/aldia* and *libertus/liberta*.²⁵ (*Libertus* seems never to have been used to refer to freedmen who had been made *fulcfree*, because they would have been assessed as free persons, whereas the compensation values for people described as *libertus* are low, only just above those for slaves.²⁶) Although freedmen contributed to the numbers of *aldii*, this condition clearly covered a more varied range of people, who might have entered into it through specific agreements with a lord; perhaps this category also caught problematic status cases, such as children of mixed marriages (though since such marriages were banned in principle, this cannot be verified from the evidence of laws).

This means that, although one might reasonably expect these freedmen to be considerably better represented in documents than their luckier, *fulcfree* counterparts, to whom precise legal status was much less relevant, they can still be difficult to identify as such. We cannot assume that when we see *aldii* in appurtenance lists in documents recording land transfers, we are necessarily dealing with freedmen;

e.g. *CDL* II, no. 201 (766), p. 202; no. 214 (768), pp. 241–2; Bishop Peredeus of Lucca (16 March 778): ed. Bertini, 'Raccolta di documenti', no. 86, pp. 136–9; also Notker of Verona (10 February 921), ed. Fainelli, *Codice diplomatico Veronese* II, no. 177, pp. 229–34. See also *CDL* IV, 2, no. 39, from 752, in which Scauniperiga and Liutprand, 'dukes of the Lombards', gave a full, *fulcfree* manumission to a woman called Cunda, along with a daughter she had had by a priest, with full description of the ritual; in this case she also clearly had a new social position to fit into, perhaps with a view to marriage to (or at least adoption of her daughter by) the priest. For much more plentiful, later examples from Southern Italy: D'Alessandro, 'Servi e liberi', pp. 295–6; Martin, 'L'esclavage en Pouille', pp. 65–72: at the more independent end, *Codex Diplomaticus Cavensis* I, no. 149 (928); no. 201 (959); II, no. 334 (981) (granting freedom 'through the four corners of the world'); *Codice Diplomatico Barese* V, no. 36 (1103); no. 100 (1146); no. 122 (1164); no. 146 (1182). See also the case of Ermenandus, a freedman of the palace, who tried without success to claim freedom for his wife and seven children: *Codex Diplomaticus Cavensis* I, no. 67 (869), p. 88; Panero, *Servi, schiavi e villani*, pp. 52–3. *Codex Diplomaticus Cajetanus* no. 153 (1028) (manumission of two female slaves); no. 168 (1037) (one male slave). Some eleventh-century manumissions freeing household slaves are reminiscent of deals more frequently found during the later middle ages, offering full freedom but after a stipulated period of time: *Codex Diplomaticus Cajetanus* no. 143 (1024): five slaves freed, but three women to continue to serve their master's daughters until they married; no. 234 (1067).

²³ Rothari 224, IV (*Leges Langobardorum*).

²⁴ Rothari 224; Liutprand 23, 106 and 140 (*Leges Langobardorum*).

²⁵ Feller, 'Sulla libertà personale', p. 183, also assimilates *aldii* and freedmen. But there must have been a difference: Rothari contrasted 'an *aldia*, that is, one already born of a free mother', violence against whom had to be compensated at the rate of 40 *solidi*, with a *liberta*, for whom the compensation was only 20 *solidi* (Rothari 205 and 206, *Leges Langobardorum*).

²⁶ Rothari 76–102, 127, and 129 (*Leges Langobardorum*).

to establish that, more contextual information is needed. This means we cannot count the numbers of *aldii* found in documents as indicating that this restricted type of manumission was becoming more frequent relative to the ‘fully free’ type.

This leaves us with fewer documents to work with than Bloch thought, though there are still some. Two cases from the archive of Toto, a landowner from Campione (on the modern border between Italy and Switzerland), make for particularly rich case studies. The first document, from the first half of the eighth century, records an enquiry conducted by an unnamed royal official into the status of a man called Lucius, whom Toto was claiming as his property, and who had apparently already suffered violence at his hands.²⁷ Lucius said that he had been freed by Toto’s parents, and presented the manumission document. The document proved that he had indeed been freed.²⁸ Unhappily for Lucius, however, the manumission had been performed at a church altar before Liutprand had issued a law counting church manumission as leading to *fulcfree* status, as an alternative to the ritual involving crossroads.²⁹ The official concluded: ‘it seemed to us that he could not be free, but an *aldius*’. Nevertheless, he seemed keen to give Lucius every chance, and suggested the thirty-year rule as an alternative route to freedom. If Lucius had been able to prove he had been living as a free man for the past thirty years, Toto’s claim would have failed. The official went on:

I asked this Lucius what he had been doing for Toto or for his parents for the last thirty years. And this Lucius told me that he had done weekly work for him in fields and vineyards and in cartage service. And I asked him if he had done these services as [Toto’s] property or as a free man (*pro pertinentia aut aliquet pro libertate*); and he said he did them as a free man. And I ordered him to prove with free men what he said, that he had done this for the last thirty years of his own free will (*pro bona voluntas*), not out of servitude (*pro pertinentia*); but he said that he could not do this. And for the salvation of the soul of our lord king, I told him to tell me which men knew of his freedom, and I would enquire into it diligently myself; but he told me that there was no man who knew of his freedom. And we ordered Toto not to impose any further new duties on him, only what he had been doing for the last thirty years, and we ordered this Lucius to continue to do for Toto in the future what he had been doing for the last thirty years.

This case has a number of implications. To start with the most obvious, Lucius had clearly continued to do fairly heavy work for Toto even after his manumission, indeed a quantity of work that did not in itself help to differentiate him from Toto’s properly unfree dependants. The official’s line of questioning shows that a person could owe exactly the same services whether free or unfree: his questions

²⁷ Gasparri and La Rocca, *Carte di famiglia*, no. 4, pp. 312–14 (dated between 721 and 744); = *ChLA* XXVIII, no. 847; = *CDL* I, no. 81; see Feller, ‘Sulla libertà personale’, pp. 197–200.

²⁸ It also said that he had paid three *solidi* to Toto’s parents to buy his own *mundium* from them and three more for his children’s *mundium*. The payment of this sum was not a reflection of any market value, and probably had more to do with symbolizing the transfer of his *mundium* (it is a curious feature of Lombard law that all transfers of *mundium*, including for free women when they got married, seem to have been formulated as sales); so this payment does not mean that he was buying himself back in any straightforward sense, nor that he had necessarily taken the initiative in the manumission.

²⁹ Liutprand 23 (*Leges Langobardorum*).

did not focus on *what* Lucius had been doing for Toto, but on his state of mind when he was doing it—‘did you do this because you were unfree or of your own free will?’ No empirical test based on concrete conditions of life could apparently help to determine this, so that there seems to have been no link, at least in this case, between status and the quantity of work actually performed.³⁰

Lucius was still working for his ex-masters’ heir, which begs the question of why the dispute might have arisen. Given that Toto’s actions are presented as the root cause for the dispute, the most likely scenario is probably that Toto tried to increase Lucius’s work; Lucius refused on the basis of his free status; Toto then, in reprisal, tried to claim him as a slave. If this reading of the situation is correct, Lucius did, in a way, win his case, at least on a practical level: although he did not end up being as free a man as he had hoped, and was instead categorized as an *aldius*, his dues were fixed at the level they had been at for the previous thirty years as a result of the intervention of the royal official (whose diligence in this matter suggests he may have had it in for Toto). Being an *aldius*, or anything apart from a slave, seems to have been understood as a guarantee that labour duties would not be increased.³¹

The other document from the same archive deals with a very different situation, though it too suggests that unfree people who had been freed into the status of *aldii* could continue to perform much the same labour they had before. When Toto II, the nephew of the first Toto, decided to turn his house into a religious foundation (*xenodochium*) and place it under the authority of the archbishop of Milan in 777, he gave his *servi* and *ancillae* at the same time as the land, and said that from then on they would be *aldii* and *aldiae*. He also specified that they were to continue doing the same work they had done before, though they were no longer obliged to provide their own lunch.³² None of these people are named: unlike the other freedmen we have met so far, these *aldii* were freed *en masse*, with much less of a personal bond. Their descendants clearly remained *aldii*, as is attested, in a freak chance of survival, by another document from 844, which referred back to Toto’s document in order to return some wayward *aldii* back into service.³³

In this case at least, therefore, everything looks as if it matches Bloch’s interpretation: an impersonal, mass manumission; a continued, heavy subjection of supposedly freed people; the use of a distinct, intermediary category in order to express that someone was not really free. But in view of the other cases considered so far, it is important to keep in mind that this constituted only one variety of manumission

³⁰ Feller, ‘Sulla libertà personale’, pp. 189–93. For further discussion of the connection between work and status, see Chapter 5.

³¹ On *aldii*, see Chapter 5, pp. 203–5.

³² Gasparri and La Rocca, *Carte di famiglia*, no. 11 (777). See Feller, ‘Sulla libertà personale’, pp. 201–2.

³³ In this document, written thirty-four years after the death of Toto c.810, two brothers, Agnellus and Florentius, admitted to being *aldii* of the monastery of Sant’Ambrogio in Milan (to which the archbishop of Milan had transferred Toto’s *xenodochium* with its attendant properties in 835), referring back to Toto’s original document; they recognized how wrong they had been to try to get out of their service to Sant’Ambrogio ‘at the instigation and persuasion of bad men’ (*ingeniose et subasione de malis hominibus*). Natale, *Museo diplomatico*, no. 77.

among many. Freedmen were not all being pulled along the same trajectory; rather, the horizon of possibilities had expanded to include conditions that could be either better or worse than what had been offered to Roman freedmen.

It may not be entirely coincidental that the freedmen whose conditions of life best fit Bloch's theory tend to be those who had become attached to religious establishments. Most of the documentation does, of course, survive through ecclesiastical archives, and hence often involves churches in any case; but although they could behave in some ways much like any other landlord, churches also present distinctive concerns and patterns of behaviour. One of these points of distinction was a function of their sheer scale: large monasteries, particularly those patronized by Carolingian kings as local power centres after their conquest of Italy in 774, were often the largest landowners in their regions. They were also often put in charge of protecting the freedmen of people who had given them lands, particularly in *post mortem* donations.

Large-scale transfers of land to religious foundations tend to be the context for impersonal, mass manumissions. This also makes them the most visible in our documentation, so that the habitual nature of mass manumissions in this period is likely to have been exaggerated: there is very little to suggest that they took place in any other circumstances. Donations to churches are obviously the context in which we would expect to find the greatest concern with piety, and the desire by donors to perform a double good deed: first, by giving land to a church as well as a human endowment to work it; and, secondarily, by granting freedom to dependants. These two simultaneous pious deeds, however, could be in tension with each other. Donors do not seem to have felt the same concern to ensure the profitability of the lands they were giving to churches as they did for lands they would keep for themselves or leave to their direct heirs: to this extent, they were more likely to wish to grant to freedmen living on lands they were donating to a church a condition which theoretically shielded them against future increases in demands for dues and labour. Religious institutions, on the other hand, were not always content with the reduced scope for lordship offered to them through the transfer of freedmen, as opposed to fully unfree dependants. Indeed, past the point of the initial donation, these institutions could often behave in very predatory ways towards them. The future duties of freedmen stipulated by patrons were perhaps meant as an incentive for a church to protect the freedom (such as it was) of these dependants, and not to infringe the donor's secondary good deed. Freedmen's labour as prescribed in testaments, then, may have been intended partly a sweetener for the church to lend them fuller protection, and abide by the terms of the original deal.

Even then, givers in this situation did not in fact necessarily impose very harsh dues on their freedmen.³⁴ For instance, when, in 786, the gastald Hilderic left the

³⁴ *CDL* I, no. 93, freeing a fairly large number of families of *coloni*, putting them under the protection of the church which had been the main beneficiary of the testament: the freedmen had to pay one *tremissis* per household per year but there is no sign of labour duties of the kind specified by Toto. See also *CDL* II, no. 231 (769), p. 291: all unfree dependants freed, some with the power to go where they please, the others to stay and pay dues *salva libertate*; see also no. 293 (774), p. 434. Some Monte Cassino examples from the late eighth to early ninth century also suggest fairly light duties: Feller,

freedmen who lived on lands he was giving to Farfa in the care of the monastery, the duties he specified for them, should they wish to remain on these same lands, were essentially symbolic, involving only three labour days a year. From 828 onwards, after Hilderic's death, however, Farfa managed to extend this, through contracts which Laurent Feller has described as 'ferocious', to one week's labour every two to three weeks (depending on the time of year), or, in some cases, a payment of up to half of their harvest.³⁵

These freedmen, then, were clearly vulnerable, but this was not necessarily because of the way the manumission had been made, or because they constituted a special class;³⁶ instead, their worsening situation was the practical outcome of living in the orbit of a hungry and powerful ecclesiastical landlord. *Everyone* who lived in the line of sight of a great abbey, not just freedmen, would have had to watch their backs, including people who had been unambiguously free, as the free peasants (*arimanni*) endlessly taken to court by San Vincenzo al Volturno found out.³⁷ The Farfa freedmen were much like the free men whom San Vincenzo was trying to subjugate: they faced similar socio-economic pressures, and did not have much protection available to them outside the sphere of influence of the monastery they were dealing with.

Manumissors, then, did not always succeed in securing favourable terms for their freedmen in the long run. This problem would have applied above all to those freedmen who had little scope to obtain patronage and protection on their own account once their original patron had died. Entry into freedom brought its own challenges, and future freedmen as well as manumissors would probably have had to give a great deal of thought to how they would be best placed to face entry into freedom, and to retain this free status in a lasting way against a variety of competing interests—whether the manumissor's own relatives, or a religious institution appointed to ward off the claims of such relatives.³⁸ Freedmen themselves, particularly those

'Liberté et servitude', pp. 528–9; *Chronica Monasterii Casinensis* I, 10 (p. 39: four days' work per month; the same transaction is recorded in *CDL* V, no. IX (764–70), pp. 372–3; I, 19 (p. 65: three days per month); see also I, 14 (p. 51); I, 18 (p. 60). Duties in *Regesto di Farfa* II, no. 152 (792) are again light. No duties are specified in a manumission from the cartulary of Casauria, *Chronicon Casauriense*, fol. 61, lines 22–4, in which Vasta, an *ancilla*, is manumitted for the good of the donor's soul 'into the hands' of a monk (possibly, given the reference to the freedom of her future children, to marry a dependant of the monastery?; 1036 × 1050). For an image of the relevant page, see <http://gallica.bnf.fr/ark:/12148/btv1b84526553/f133.image> (no reliable edition exists, though there is a facsimile). Feller, *Les Abruzzes*, p. 552.

³⁵ Feller, 'Liberté et servitude', pp. 529–30. For Hilderic's donation: *CDL* V, no. 100; extremely harsh later agreements, demanding half of the produce: *Liber largitorius*, no. 9 (835), p. 36; no. 14, pp. 39–40. Hilderic is last attested in a charter from 817: *Regesto di Farfa* II, no. 230, p. 190. On Hilderic see Costambeys, *Power and Patronage*, pp. 237–40.

³⁶ Laurent Feller considers the rights conferred by manumission *cum obsequio* to have been so limited that '... è legittimo chiedersi se le liberazioni, quando hanno luogo, non siano, in realtà, un mezzo per consolidare i rapporti di dominio' (Feller, 'Sulla libertà personale', p. 183). See also Feller, 'Liberté et servitude', pp. 528–31 on manumissions, rightly stressing the vulnerability of some freedmen.

³⁷ Wickham, *Studi sulla società degli Appennini*, pp. 18–28; Feller, 'Liberté et servitude', p. 514; see also Chapter 5, pp. 204–5.

³⁸ Two Lombard wills, *CDL* II, nos. 214 (768) and 293 (774), stipulate that the clergy of the churches to which property was being left were supposed to grant manumissions on the giver's

who continued to owe service, are generally ascribed a very low level of agency by historians. It tends to be assumed that they would always rather have been given the ‘best’ and most independent kind of free status, but this would probably only have been the case all other things being equal: it would not have been much use being given full freedom unless one was also in a strong enough position to be able to continue to assert claims to it later on. Calculations of the balance of duties and rights therefore had to take account of all sorts of other considerations, such as where freedmen could hope to stand in free society, and on what terms they might be accepted into it; what the ex-master wanted out of them, and how he felt he could best secure it; and what might have to be offered to other potential protectors in exchange for securing the stability of the outcome.

Different types of manumission, then, both mirror different starting points in terms of access to agency, and also contributed to perpetuating these differences. If unfree dependants had already been on the back foot, that was where they stayed; but this does not mean that granting them fuller freedom would have automatically increased their scope for agency. For that, they would have needed to insert themselves into networks of patronage and protection, and also have the capability of establishing an independent financial position. This, before the more commercialized context of the twelfth century onwards, was not easily accessible through paid work. The highly valued unfree servants who were made *fulcfree* were those more likely to have sufficient personal skills or resources to allow them to make their own way, and obtain powerful protectors through their own efforts and service. This would also have been the case for a woman made *fulcfree* in order to marry a free man, who had a ready-made position waiting for her which would integrate her in free society on a relatively secure footing.³⁹ A manumitted peasant, on the other hand, would have been much less likely to do well in free society off his own back, or even to be able to defend his claims to freedom in the long run, since he could only be supported by working on land which did not belong to him outright (and as we have seen, many freeborn people in this position, let alone freedmen, could find it difficult to protect themselves when faced with a particularly dominant landlord). Being freed in a *post mortem* donation would only have accentuated this problem, since by definition the manumittor would no longer be around to offer protection or uphold their claims to freedom against those who might try to claim them as unfree. If freedmen’s actual independence did not mirror the terms of their manumission, their manumission was at risk of being put in doubt—as in the case of some *servi* in Oulx (Piedmont), who, despite being able to produce their original document of full manumission, were nevertheless successfully claimed by the monastery of Novalesa, when the latter acquired the lands they lived on, on the basis that they had continued to live for thirty years without any apparent change in their condition.⁴⁰ Manumissions

behalf—they may have been worried about relatives, who also seem to be the main concern in Aistulf 12 (*Leges Langobardorum*). Everett, *Literacy in Lombard Italy*, pp. 179–80.

³⁹ Liutprand 106 (*Leges Langobardorum*); see e.g. the case of Cunda, above, n. 22.

⁴⁰ Panero, *Servi, schiavi e villani*, p. 266; Manaresi, *Placiti* I, no. 37 (827), pp. 113–18.

in Lombard Italy, then, show a great deal of attention to the very tight construction of terms, designed to balance the competing interests of all kinds of different parties involved.

THE IBERIAN PENINSULA

The profoundly distorting viewpoint of ecclesiastical sources is even more palpable for Spain, above all in the Visigothic period. The problem there extends to legislation, which in Spain went hand in hand with church conciliar activity to a much greater degree than elsewhere.⁴¹ These give the impression that freedmen in Spain were much more severely subjected from the start than in Italy. Church councils placed strong restrictions on the scope for manumissions of church personnel by bishops, and also insisted on the dues owed by ecclesiastical freedmen. A number of church councils ruled to reverse manumissions of ecclesiastical slaves made by bishops in their wills, for instance if the bishop had provided no compensation to the church or if the freedmen had chosen new patrons.⁴² Freedmen had to present charters of manumission within a year of the installing of a new bishop.⁴³ The Fourth Council of Toledo, in 633, ruled that since churches were a deathless sort of patron, freedmen and their descendants should be forever subjected to them.⁴⁴ In a bid to secure the reproduction of freedmen as freedmen, church legislation also forbade marriages with free outsiders, presumably in order to avoid future complications over the status of children.⁴⁵

Kings seem to have followed the cue of ecclesiastical councils in restricting the rights and independence of freedmen in secular laws.⁴⁶ As with church lands, some effort was made to avoid royal agents creating excessive numbers of freedmen out of the property of the institution they were representing, with an insistence that fiscal *servi* could only be freed by a royal document.⁴⁷ Freedmen of private individuals were barred from being employed in the royal palace (which suggests not that they were a reviled category, but rather that they were probably being used by ex-masters as a way of building connections with royal officials, as we saw for Italy; the difference was only that Visigothic kings seem to have been more nervous about divided loyalties than Lombard ones).⁴⁸

Visigothic laws did not stop there, and also increased significantly the restrictions placed on the freedmen of secular ex-masters. It is not at all clear, however, what these restrictions in fact meant, and to what sort of demand, if any, they might have been responding. If Visigothic laws deal with the 'free' part of freed

⁴¹ The key article here is Claude, 'Freedmen in the Visigothic kingdom'. See also Sommar, 'Ecclesiastical *servi* in the Frankish and Visigothic kingdoms'.

⁴² Claude, 'Freedmen in the Visigothic kingdom', pp. 167–71.

⁴³ Esders, *Die Formierung der Zensualität*, pp. 38–9.

⁴⁴ Toledo (633), c. 70 (Vives, *Concilios visigóticos e hispano-romanos*).

⁴⁵ Claude, 'Freedmen in the Visigothic kingdom', pp. 172 and 180.

⁴⁶ Claude, 'Freedmen in the Visigothic kingdom', p. 176.

⁴⁷ Claude, 'Freedmen in the Visigothic kingdom', pp. 176–7; *Liber iudiciorum* V, 7, 15–16.

⁴⁸ Claude, 'Freedmen in the Visigothic kingdom', pp. 179–80 for the 'reviled category' interpretation.

status much less thoroughly than they do with its restrictions, this may have been largely because restrictions presented a knottier problem. Legislative fever, and the desire to cover every possible scenario in which a patron–freedman relationship might go wrong, may simply reflect a continuation of the late Roman trends of following an internal legal logic through to its ultimate conclusion, as well as showing extreme keenness to legislate over various aspects of internal family life. Visigothic laws show a notably different approach to internal familial affairs in general from that of other law-codes in the rest of Western Europe, which, if they dealt with these issues, did so mostly only when they were dragged into it by elites demanding the resolution of particular problems that had come up and affected them.⁴⁹ Visigothic law took a different tack, and pre-empted problems by offering a complete set of ready-made solutions, which matched kings' own idea of how things should work; this often involved stopping families from exercising full discretion in some important matters, such as, for instance, what to do in cases of rape or abduction (*raptus*).⁵⁰ In the case of freedmen, this legislation was based on rules developed through the ongoing work of ecclesiastical councils, which had dealt only with church freedmen. The fact that secular laws extended such hard-line ecclesiastical patronal rights to secular patrons does not necessarily make it more likely that laypeople found this legislation useful. Dietrich Claude takes, for instance, restrictions stipulating that freedmen were forbidden from marrying into their manumittor's family as a sign of the 'growing gulf between the free and the freed';⁵¹ but after all, if a patron did not want to marry his daughter to his freedman, there was no reason why he would ever have had to, even without this prohibition. Patrons could decide internally to their own satisfaction what they would and would not require of their freedmen without any intervention from kings. This restriction on hypergamous marriage is thus unlikely to have corresponded to a demand on their part, and much the same could be said of other areas of legislation involving freedmen, which look as if they were intended primarily to keep the relationship between master and dependant within the bounds of what kings (and late Roman emperors before them) had thought appropriate—regardless of what patrons themselves might actually have wanted.⁵² Visigothic laws' approach to freedmen, then, is more likely to have been determined by their more generally interventionist attitude than by any progressive intensification of freedmen's duties over time.

Churches and kings did need this kind of legislation, to stop individual bishops or royal officials from alienating willy-nilly property that did not belong to them. Churches also needed to ensure that they would get a trade-off in exchange for receiving freedmen as opposed to slaves along with land gifts—in the form of service, payment, and a guarantee of stability of their workforce. Secular patrons did

⁴⁹ Nelson and Rio, 'Women and laws', p. 108.

⁵⁰ Families were thus not allowed to arrange a marriage following a *raptus*; see Chapter 2, n. 79.

⁵¹ *Liber iudiciorum* V, 7, 17; Claude, 'Freedmen in the Visigothic kingdom', p. 172 for the quote, and p. 180.

⁵² On the influence of conciliar legislation in this respect, see Sommar, 'Ecclesiastical *servi* in the Frankish and Visigothic kingdoms'.

not have this sort of problem, and are thus likely to have had very different priorities from those of churches and the fisc. The assumption that people always pursue all their legal rights to their absolute limit is often made; it is legal history's version of rational choice theory. But if masters had wanted to keep their freedmen in an identical kind of service to the one they had been in before, without changing the basis of the relationship, they could just as well have left them as slaves. It might be a mistake to assume that laws stipulating maximal constraints on freedmen, by their very existence, would automatically have resulted in a maximal exploitation of these constraints by ex-masters in practice; if they had been, they would largely have defeated the point of manumitting someone in the first place. Extending to all patron–freedman relationships concerns which had their roots in the special cases of ecclesiastical and royal freedmen is therefore likely to be highly misleading.

Documents are rare before the ninth and tenth centuries, but those that do survive suggest a situation much closer to the one we found for Italy, with a similarly wide range of outcomes for manumissions. The first six formulae from the Visigothic collection all deal with individual freedmen who were being made entirely free by being granted 'Roman citizenship'. The language of gift-giving and reward for personal service is pervasive in these texts, and they threaten anyone who might try to re-claim these freedmen with the most extravagantly vindictive spiritual and material penalties.⁵³ 'Roman citizenship' also features in the testament of Bishop Vincent of Huesca (in the Pyrenees region), from 576.⁵⁴ The end of Vincent's testament lists the dependants to whom he had already granted or was now granting freedom. His terminology changes (he turns them variously into *ingenui, liberi, cives Romani*), but all cases indicate that what was being granted was full freedom, and that it was also being extended to any wives and children. Vincent made gifts of land to some, while leaving others the land they already occupied (as their *peculium*—a typically small amount of property to which slaves were allowed access in Roman law, which still belonged to the master in principle). To the last three he seems to have given nothing at all, perhaps because they were intended for the priesthood, and so could find means of support in other ways: all three were apparently unmarried men, and one of them had already been freed in front of the

⁵³ For 'Roman citizenship': *Formulae Visigothicae* 2–6 (Zeumer, *Formulae*; for a newer edition: Gil, *'Formulae Visigothicae'*). No. 1 is also a manumission; the beginning is missing, but the parts that remain are so adamant in their guarantees of freedom that it probably involved full freedom too. There is no material difference between the situations involved in these formulae; the multiplicity of models was clearly intended to offer a repertoire of different stylistic approaches. See Córcoles Olaitz, 'The manumission of slaves in the view of the "Formulae Visigothicae"'. For a later, Catalan formula of full manumission, see also Zimmermann, 'Un formulaire du Xème siècle conservé à Ripoll', pp. 79–80. For another example preserved in a ninth-century manuscript, again suggesting full manumission, see Vives, 'El oracional mozárabe de Silos', p. 25; I am grateful to Wendy Davies for this reference.

⁵⁴ In 551, when he was a deacon, Vincent had also made a *post mortem* gift to the monastery in which he had been raised and educated, but he had not freed any of his slaves then, and simply transferred them along with the land. For both texts with English translation, see Corcoran, 'The donation and will of Vincent of Huesca': the manumissions are on fol. 2, pp. 220–1, lines 1–3, 5–6 and 11–17. For a version of both texts including full critical apparatus, see Fortacín Piedrafitá, 'La donación del diácono Vicente', pp. 59–64. See also Díaz, 'El testamento de Vicente'.

clergy of Huesca.⁵⁵ What Vincent did not do was make any provision for his freedmen's protection and patronage; perhaps, because of his close relationship with the church of Huesca, which he was also making his universal heir, he could reasonably hope, in a way that an outsider layman might not, that the community there would respect his wishes.

By the time we find more abundant acts of practice, in the ninth and especially the tenth centuries, manumissions seem to cover a range of different arrangements, as in the Italian evidence. At the most independent end of the spectrum, the deacon Ermegildus, when he made provision for his freedmen in 936, only asked them to light a candle and make an offering (*oblatio*) at his tomb every year, on the feast days of Saint James and Saint Eulalia; he asked his executors to pick a *villa* among his property in order to support them, out of which they were to make the offering, 'according to what they can give'. He also confirmed any gifts he might have made to the *pueri* among them who had worked in his house, and with whom he evidently enjoyed a more personal connection, specifying that they were not to pay any dues for keeping these gifts.⁵⁶ Several other examples of individual manumissions made on generous terms survive, including some which continue to use the phrase conferring 'Roman citizenship' as late as the eleventh century.⁵⁷ It is possible that clerics, from Vincent to Ermegildus, were marginally better placed to secure the interests of their freedmen through their long association with the religious institution that was presumably meant to enforce their rights. One passage in the *Life* of Mazona, part of the seventh-century *Lives of the Fathers of Merida*, suggests that renegeing on a previous bishop's manumissions was regarded as extremely bad form.⁵⁸ At the other end of the spectrum, we find freedmen left under the patronage of a church, who depended for the security of their new status on being simultaneously protected and exploited by their new patron, as we saw in Italy.⁵⁹ All this is very much within the range of situations found elsewhere in Europe.

⁵⁵ Corcoran, 'The donation and will of Vincent of Huesca', p. 221, lines 15–17.

⁵⁶ León I, no. 109, p. 177; discussed in Davies, *Acts of Giving*, p. 19.

⁵⁷ *Celanova* I, no. 172 (22 September 943), pp. 240–1: Bishop Rosendo frees (with Roman citizenship) and leaves shares in some very substantial property to his slave woman named Muzalha (Verlinden thinks she was probably a Muslim: *Lesclavage dans l'Europe médiévale* I, p. 120; he also considers this to be a manumission '*cum obsequio*' just because she had to make a small memorial gift every year, but this is hard to justify, since she is allowed to sell her property, albeit to persons of the manumitter's choice). See also no. 361 (no date) for a woman freeing her slave Julia, born of Muslim parents. For further manumissions on good terms, compare *Portugaliae Monumenta Historica* no. 12 (pp. 7–8) and, for a manumission of a slave woman by her mistress, no. 806 (from 1094). For a late gift of 'Roman citizenship' from Braga, see also *Liber fidei sanctae bracarensis ecclesiae*, no. 607 (from 1086).

⁵⁸ *Vitas Sanctorum Patrum Emeretensium* V, 13, pp. 95–7; transl. Fear, *Lives of the Visigothic Fathers*, p. 101.

⁵⁹ *Sobrado* I, no. 123 (867): the freed slaves of Bishop Rosendo are placed under the *patrocinium* of the beneficiary church, with expected yearly gifts of candles and offerings for the poor 'insofar as they are able'; also *Sobrado* I, no. 188 (1000), freeing forty people and their descendants. *Celanova* I, no. 131 (1123): freeing a *libertus* so as to make him *ingenuus*—possibly a reference to a staged progression (for more examples of the freeing of *liberti*, see Fernández Ferreiro, *Servos e escravos*, p. 108). Referring to continued service: *Sobrado* I, no. 115 (1019); *Tumbo A de la Catedral de Santiago* no. 24 (912). Specifying continuing service to the assigned patron alongside 'Roman citizenship' (*ingenite*

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Merovingian testaments

Merovingian testaments are a particularly rich source on freedmen, not least in that they offer a snapshot of the entirety of an individual's property. The most striking in its treatment of freedmen is the testament of Bishop Bertram of Le Mans, dated to 27 March 616.⁶⁰ Under one heading, Bertram freed a number of his dependants and *famuli* 'of both Roman and barbarian birth' by name, along with their families. He went on to grant them their *peculium*, thereby giving them a degree of economic independence, and insisted that they should be entirely free, under the protection of the church of St Peter and St Paul, Bertram's own foundation and his chosen place of burial. The only duty that these freedmen were to perform, Bertram said, was that they should all reconvene together every year on the anniversary of his burial, make an offering at his tomb, and perform there for the abbot the same work they had used to do for him during his lifetime; after which, on the following day, the abbot was to give them all 'a good meal', and each would return to their own homes.⁶¹ This strange re-enactment of their earlier life (presumably somewhat idealized in its picture of reciprocity between servants and served) suggests that all these freedmen had been Bertram's household servants, and had a personal relationship with him. This is confirmed by his further stipulation that any 'barbarian boys and girls' he might buy in the future were to be included in the manumission under the same terms; the term *pueri* was never used to refer to rural dependants, only household ones.⁶²

Bertram's concern to control his own memorialization down to its most minute details also extended to a second group of freedmen, chosen from the unfree population living on the lands that were being transferred to the same church. These are listed under a different heading in the testament, and treated in much more

sicut et alii ceteri populi romanorum): Samos no. 127 (958), pp. 277–9; see also no. 64 (1009). Samos no. 82 (1010) leaves the donor's *familia* in the hands of the monastery, and seems to make special provision to free those who prove themselves good and devout, as opposed to others (p. 185, *qui in superbia remanserit*). Sobrado I, no. 77 (817) and Celanova II, no. 506 (955) transfer, along with estates, the *servos vel liberos* living on them (though *ingenui* are sometimes also added to the list, as in Sobrado I, 64 (984), so this does not necessarily say much about freedmen in particular). Portugaliae Monumenta Historica no. 133 (p. 82) transfers a freedman and his wife along with some property to a monastery.

⁶⁰ Weidemann, *Das Testament des Bischofs Berthramn*. M. Borgolte, 'Felix est homo, ille, qui amicos bonos relinquit: Zur sozialen Gestaltungskraft letztwilliger Verfügungen am Beispiel Bischof Bertrams von Le Mans (616)', in H. Maurer and H. Patze eds, *Festschrift für Berent Schweineköper zu seinem siebzigen Geburtstag* (Sigmarigen, 1982), 5–18.

⁶¹ Weidemann, *Das Testament des Bischofs Berthramn*, c. 67, p. 44: 'ministerium qualem egisse visi sunt unusquisque in Dei nomen in praedicta die observent. Et abbati loci illius solacium praebeant, et postea in crastinum abbas det illis dignam refectionem et unusquisque ad domos eorum revertantur.' This desire for commemoration is mirrored in other Merovingian testaments: Heidrich, 'Freilassungen als Sicherung des Totengedächtnisses', pp. 226–7 on Bertram; Borgolte, 'Freigelassene im Dienst der Memoria'. On Merovingian testaments in general, see Nonn, 'Merovingische Testamente'; Barbier, 'Testaments et pratique testamentaire dans le royaume franc'.

⁶² '... tam isti quorum nomina hic continentur, vel quos postea de gente barbara comparavi aut adhuc comparare potuero, tam pueri quam puellae, qui a me empti noscuntur.'

impersonal a manner: Bertram simply says that, since he had not had the time to scrutinize fully his *familia* (the people under his legal authority), one dependent family (*condoma*) from each of the estates he was giving to this church, whichever one was known to be the 'neatest' (*qui nitidiores esse noscuntur*), should be chosen and be 'freed from all service' in order to look after his tomb all the days of their lives.⁶³ This also included the provision of lights for his tomb, and the duty was to be inherited by any children born to them. Clearly these duties were considerably heavier than those specified for Bertram's household freedmen. Bertram's concern here was to find ways to fund his commemoration by the church in a suitably grand yet financially sustainable way, as opposed to showing any particularly strong sense of personal connection with the people he was freeing, or gratitude for their service: he did not much care who was freed, as long as his commemoration was not jeopardized by poor presentation.

Bertram made his testament in 616. A different attitude to freedmen seems to emerge from the latest Merovingian testaments, written in the eighth century: the testament of Widerad, founder and abbot of Flavigny, written in 722; and, from 739, that of Abbo of Provence, a lay magnate of Charles Martel and founder of the monastery of Novalesa.⁶⁴ Widerad does not spend a great deal of time discussing his freedmen: he only mentions two by name, both of them clerics. The rest feature only in appurtenance clauses, along with the rest of the rural workforce, free and unfree, residing on the lands he was transferring to a variety of religious institutions. But he did specify that any freedmen he might have made or would make in the future,

however many live in those places which we have left to Saint Andochius and Saint Regina and Saint Ferreolus or Saint Praejectus, once their charters of freedom have been inspected, should remain on these lands as freeborn people (*ingenui*), and let them in no way have the right to live anywhere else, but they should belong (*sperare*) to these holy places, and none of them should render any tribute (*litimonium*) to our heirs, and let them not have the right to sell or alienate any of what we gave them through charters to anyone anywhere.⁶⁵

Widerad was, in effect, ensuring that any manumissions he might make would not rob these religious institutions of their workforce. At the same time, he may also have been concerned, like Bertram, with using his freedmen as a way of creating, through their tie of obligation to their ex-owner, a permanent memorial link between himself, the land he was giving, and the churches he was giving them to.

The testament of Abbo in some ways shows concerns similar to Widerad's, stressing that his freedmen had to pay *obsequium* and dues to Novalesa just as they had to himself and to his parents, and even allowing the monastery to re-enslave

⁶³ Weidemann, *Das Testament des Bischofs Berthramn*, c. 69, pp. 46–7.

⁶⁴ Widerad: Bouchard, *The Cartulary of Flavigny*, no. 1, pp. 20–6; this forms the basis for *Collectio Flaviniacensis* 8 (Zeumer, *Formulae*; see Rio, *Legal Practice*, pp. 119–21). Abbo: Geary, *Aristocracy in Provence*, pp. 38–79; on freedmen in Abbo's will: Carrier, *Les usages de la servitude*, pp. 53–7.

⁶⁵ Bouchard, *The Cartulary of Flavigny*, no. 1, p. 24, lines 111–118.

them if they persistently failed in this duty.⁶⁶ But the form of Abbo's testament also suggests that he had a much more personal acquaintance with at least some of his rural freedmen than Bertram or Widerad had had with theirs. For a start, the vast majority of his freedmen seem to have already been freed at the time he wrote his will, rather than having to wait until after his death. He refers to many of them by name, often with detailed additional information concerning their parents and families, and specifying what lands they were to occupy. This amount of detail contributes to giving the impression that freedmen were the single most dominant category of person in the text of the will, but since the total only adds up to about fifty identifiable individuals, it is highly unlikely that these freedmen constituted the majority of Abbo's workforce, which, given the extent of the lands he was granting, must have been considerable. The rest of this workforce can only be located in the many appurtenance lists conveying to the monastery a nameless bunch of *servi*, of other freedmen evidently less worthy of direct consideration, and of free tenants. In principle it would have been enough in order to secure Novalesa's rights to include them all through appurtenance lists, as happened in the testament of Widerad, without going through the considerable bother of listing them individually. What, then, made Abbo feel compelled to name names in some cases but not in others?

The most obvious answer is that Abbo was not simply confirming Novalesa's rights: he was also securing his freedmen's specific rights of tenure over particular lands. In the vast majority of cases, named freedmen were not just being handed over to Novalesa to be dealt with at the monastery's discretion; they were also being granted particular units of exploitation, which Abbo was placing permanently under their control. Abbo was effectively clearing up any potential areas of uncertainty to ensure that the transition in ownership was a smooth one, *both* for his freedmen and for Novalesa.⁶⁷ On balance, the will shows a tendency to discuss in much greater detail those freedmen who lived on lands that had been recently acquired or had a more complicated ownership history, because those were the ones whose rights most needed clearing up; by and large, Abbo less often bothers to name those freedmen who had been manumitted by his parents and lived on his own inherited property.⁶⁸ The fact that so many of Abbo's freedmen seem to have been granted lands which had changed hands within living memory in fact suggests that he might have pursued a conscious strategy of granting to his most trusted freedmen lands which had been recently acquired or were somehow more dubious, as a way of moving in quickly and asserting control.⁶⁹ The ability of

⁶⁶ Geary, *Aristocracy in Provence*, c. 45 (see also c. 58, allowing Novalesa to pursue and recover freedmen dispersed in the wake of Saracen attacks).

⁶⁷ Clearly people who had granted lands to Abbo himself had also tried to provide in the same way for some of their own freedmen, since Abbo occasionally confirms the holdings of freedmen who had been manumitted not by himself, but by the original owners of his newly acquired lands. Geary, *Aristocracy in Provence*, c. 26 (for the freedmen obtained from Widegunda); c. 59 (a freedman and his wife obtained from Siagria and placed in charge of land she had given to Abbo).

⁶⁸ E.g. Geary, *Aristocracy in Provence*, c. 23.

⁶⁹ The best example is Unebertus: Geary, *Aristocracy in Provence*, cc. 39–40. For another instance of Abbo's own freedmen being granted recently acquired lands, see also c. 32; also c. 56: Tersia is

freedmen, unlike slaves, to testify in court as to the ownership of land may have contributed to making this an attractive solution.

Abbo's will opens a rare window on a layman's disposal of his property in full, and suggests an active use of freedmen as a way of asserting control over particular lands, as extensions of himself in sometimes far-flung places. Clearly these freedmen would not, after his death, have the same relationship with Novalesa as they had had with Abbo. Perhaps the stress he placed on the need for his freedmen to act towards Novalesa exactly as they would have done towards him was motivated by his awareness that the relationship would inevitably shift from a personal bond to one which would be less so, but which Abbo was keen to stress should be taken equally seriously by both parties.⁷⁰ His insistence on his freedmen's continued dues was probably intended only to counterbalance the extent of their control over the lands that he was granting to them at the same time, and to make sure that they would not try to appropriate them, but would recognize the lordship of Novalesa. There is certainly no sign that these freedmen had heavier dues than anybody else, including his free tenants.

Three general points emerge from the comparison between these Merovingian testaments. First, Bertram, Widerad, and Abbo manumitted different people for different purposes: Bertram as a reward for service (for his household freedmen) and to ensure his own commemoration (for both household and rural freedmen); Widerad to ensure continuity in the workforce on the lands he was granting to churches (and perhaps to ensure his own commemoration as well); Abbo to put certain trusted dependants in charge of his estates, to reward them, and to secure their own position as well as his religious foundation's ability to rely on them. Although these manumissions were made in more or less personal ways, they all seem to have been selective in their choice. Although Bertram manumitted all of his household servants, he certainly did no such thing for his rural dependants, and his manumissions were all predicated on personal service—whether that which he had received mostly during his lifetime from his household servants, or that which he intended to receive from his rural dependants once his body was buried. Bertram did not choose to select the beneficiaries of his rural manumissions personally, but he did set out very clear guidelines for how it should be done. The apparent lack of any personal relationship does not, then, imply that selectiveness was reduced; it could simply be delegated.⁷¹

Second, the wills show that freedmen of all sorts were a particularly fruitful kind of dependant to deploy as extensions of the previous owner himself, whether to

granted lands confiscated by Charles Martel and Theuderic from a certain Rodulfus, and subsequently granted to Abbo.

⁷⁰ The only freedman to be mentioned as a particular flight risk, and threatened with re-enslavement if he tried to leave his land, was *locos* the harpist (Geary, *Aristocracy in Provence*, c. 48), evidently an elite slave who had already been given land by Abbo, and was now being manumitted in the will; his skills presumably gave him greater scope for mobility.

⁷¹ As it also was in *Formulae Marculfi* I, 39 (Zeumer, *Formulae*), a royal order to free three slaves of either sex on each estate of the fisc in order to celebrate the birth of the king's son (the manumission formula for this occasion is also given at II, 52).

fulfil a duty of memory (in the case of Bertram, and perhaps Widerad) or when there was a need to install dependable and trusted managers on potentially problematic pieces of land (in the case of Abbo). Although the latter aim required a personal relationship of trust between ex-owner and freedman, the former did not necessarily, as is evident in the case of Bertram. Leaving freedmen on land that was being given to a religious institution obviously gave the granters the greatest assurances for the stability of their memorialization; in such cases, the continuity of memory largely depended on the continuity of work performed, both to provide resources for commemoration (as with the candles for Bertram's tomb) and to ensure that the land remained symbolically linked, through the freedman, to the person of the manumittor. The insistence that freedmen should remain on their land in this scenario, and for the condition to be inherited, is therefore explicable in terms of the objectives that this particular type of manumission was meant to fulfil.

Third, as in Italy and Spain, the key difference seems to be that between those freedmen who had a church as their legal protector and freedmen for whom a church acted as both legal protector *and* landlord. The freedmen in the second case are the ones who best fit Bloch's model for manumission 'with duties', but it can be difficult to distinguish between dues that were linked explicitly to the awarding of freed status and those that were simply linked to the continued occupation of land under a tenancy agreement. Was this type of manumission the way of the future, to the point of eclipsing other, more independent versions?

Carolingian charters and formularies

Freedmen who were also tenants are obviously much more likely to be represented in the source material, since they and the land they held were the object of continuing rights. From the Carolingian era, the surviving evidence no longer consists in testaments, but in piecemeal grants, *post mortem* or otherwise, to individual recipients, above all churches, which means we are even more likely to find evidence for more subjected freedmen than for more independent ones in this type of material. But the later documentary record is still enough to show that freedmen were distributed along a broad spectrum of freedoms and obligations, certainly determined according to their manumittor's wishes, but also according to their own personal and socio-economic circumstances, and how realistic a hope they might have had to be able to retain the level of independence that was being granted to them after their manumittor's death.

Manumission conducted in tandem with a land transfer to a religious institution is the context in which one would most expect to see the freedmen themselves occupying a supporting role rather than centre stage. I have already suggested that a large part of what made manumission attractive in the context of a land grant was freedmen's ability to help create a triangle of relationships, involving not just themselves and their manumittor, but also, and more importantly from the perspective of the donor, a church as a third party, via the continued occupation of the landed property that was being transferred, and the earmarking of some of the freedmen's dues to pay for the continued memorialization of the donor. This link was inherited

through the generations, and symbolically reinforced every time the freedmen paid their dues to these churches. In this sense, they could embody the memory of their patron in a way that land on its own might not. For this purpose, freedmen presented clear advantages over either free dependants, whose legal and symbolic bond to their landlord was much looser and more conditional, or unfree ones, whose bond was entirely legal and for whom a change of ownership also implied a reorientation of loyalties. Whereas the transfer of unfree dependants severed the link between them and their ex-owner, the transfer of freedmen did not; on the contrary, it enhanced it, and turned it into a permanent symbolic bond, unaffected by changes in legal ownership. This turned freedmen into a kind of dependant uniquely well placed to function as a living link between their manumittors and the religious institution to which they were granting their lands, and as a conduit for the preservation of their memory. The fact that, in most cases, such rural freedmen would not necessarily have been known personally to the manumittor could help to explain the increasing emphasis, developed over time, on paying small sums of money at major feast days, which, at the same time as restating the authority of the freedmen's new lord, could also have functioned as the occasion for a public ritual commemoration of the manumittor, without the need for the existence of any personal feelings.

As in Italy, Bloch's 'mass' manumissions are only ever associated with lands transferred to churches. One spectacular example is Count Helmgaud's manumission of the 366 *mancipia* living on lands he granted to St-Martin of Tours in 813.⁷² Even so, we should not imagine that all donors freed all their unfree dependents systematically when they left their property to a church. Creating a few freedmen out of the many dependants being transferred could suffice to fulfil memorial purposes. It is comparatively rare to find much detail on freedmen in large-scale *post mortem* land donations, since typically donors, like Widerad, simply added a clause reserving the right to free whomever they liked after the point of the transaction, without bothering to name names. There is nothing to suggest that this would often have amounted to large numbers of people. Specific details are more often included in smaller donations made by local people, which tend to survive mostly in the archives of large churches and monasteries East of the Rhine. In these at least, donors seem to have behaved in fundamentally similar ways to Bertram: they gave land along with all the unfree dependants living on it, and in the process simply turned a couple of them into freedmen. Clear examples of this can be found in documents from Freising,⁷³

⁷² *Gallia christiana* vol. 14 (Paris, 1856), 'Instrumenta ecclesiae Turonensis', no. 12, cols. 15–18.

⁷³ *Freising* I, no. 38 (28 April 770): Misa and Cozzo are freed and their *mundeburdium* transferred to the church. *Freising* I, no. 292 (809): Irminperhit transfers seven *mancipia* along with land that had belonged to his brother Hunker to a proprietary church, and assigns the *mundeburdium* of two of them to the church as well—implying they were being freed, but still in service to the church. Two further Freising documents have similar terms, but with no mention of land, which could suggest they involved household servants (see Chapter 4): *Freising* I, no. 858 (1 Feb 860): Werimunt gives four *ancillae* to Freising with two children; Wiga, the first to be named, is to pay one *denarius* to the church and is otherwise to be free, while the other five are to have two days free each week. *Freising* II, no. 1301 (981 × 994) grants freedom to some *mancipia* and transfers them to the church, in exchange for a payment of one *denarius* a year for three of them, and three *denarii* for a further two, as well as their children once these were old enough to work.

Lorsch,⁷⁴ and Passau. The Passau document includes a little twist, but one which confirms the use of freedmen as part of a human and property nexus ensuring the donor's commemoration: in it, the donor gave land along with two *mancipia*, but freed their two sons, on the understanding that they should 'serve freely' and be fed by the church (*in libertate serviant...pro victum*), and learn letters there (*discant litteras*).⁷⁵ The boys were clearly being transferred to the direct service of the ecclesiastical household with the probable hope that, if all went well, they would become priests, which would make them all the better placed to keep the memory of the donor alive through their prayers.

Despite the absence of any strong evidence for widespread mass manumissions in Carolingian-era documents, one implication of all this is that lands that had been granted to churches were far more likely to have freedmen living on them than were lands which had simply been inherited rather than transacted, or that had been transacted between laymen, when memorialization was not a primary concern. Churches, in time, clearly collected a great many freedmen in this way, and ended up with a workforce which is likely to have differed substantially in its composition from that of lands owned by lay people. The large number of *liberti* documented in the St-Rémi polyptych (estate survey), for instance, presumably came about through just such manumissions made on the occasion of land gifts from laymen.⁷⁶ This is why Bloch supported his hypothesis of 'mass' manumissions less through actual instances found in charters—generally few and far between—than through the high number of freedmen recorded in ecclesiastical estate surveys. These large numbers in estate surveys, however, are more likely to have been the fruit of a slow process of accretion rather than dramatic, large-scale emancipation, which, if it had really taken place, we would expect to have made more of an impact on the surviving charter record.⁷⁷ Most importantly, this also means it is impossible to consider the situation of freedmen living on church lands as indicative of wider developments affecting the rural population outside ecclesiastical lordships: church lands were intrinsically much more likely to contain greater numbers of freedmen; and since a large part of the motivation for their manumission was the provision of continuity in personnel, these freedmen were also much more likely to be more heavily subjected, constrained to remain where they were and to provide services through the generations.

Manumissions made alongside a land transfer to a church, then, constitute a very special, over-represented case. At the other pole of the spectrum, manumittors could be much more directly interested in their freedmen and freedwomen, and

⁷⁴ Lorsch no. 763 (3 March 792): four *mansi* are transferred by the priest Heilrad, transferring the *mancipia* and freeing two of them (Williger and Blitdrud). Lorsch no. 3767a (15 April 817): Herbo transfers seventeen *mancipia* with land and frees six more; these have to pay two *denarii* on a feast day and remain otherwise free. Lorsch no. 868 (1 Dec 775): land transfer, with the stipulation that two unfree dependants living on it are to work only half-time for the monastery in future.

⁷⁵ Passau no. 38 (791 × 804).

⁷⁶ See Chapter 5, p. 192.

⁷⁷ Bloch found evidence for mass manumissions in the fact that a number of lands designated as 'unfree' in ninth-century Frankish polyptychs were nevertheless recorded as being in the hands of free people: these, he thought, must be the freed descendants of the original occupants (Bloch, 'Comment et pourquoi', p. 37). On this, see Chapter 5, pp. 190–4.

try to secure the most favourable possible arrangement for them, operating a sometimes complicated balancing act between the desire to give their freedmen independence and, at the same time, avail them with lasting protection from future claims. Even within church documentation, some unfree people can be seen being freed in such a way as to allow them much greater independence. This is most obvious when freedmen were not being transferred as tenants, but were explicitly granted their *peculium*, and the right to go wherever they liked. These cases are documented not as part of land transfers, but as stand-alone manumissions. Examples covering the period from the eighth to the tenth century survive, for instance, from St-Etienne of Dijon,⁷⁸ Wissembourg,⁷⁹ St-Gall,⁸⁰ Regensburg,⁸¹ St-Peter's in Ghent,⁸² Prüm,⁸³ and in the *liber censualium* of Freising.⁸⁴

All these cases survive because the church or monastery which preserved the records was being nominated as the newly freed people's 'protector', to whom they had to pay a modest sum of money annually from then on. The fact that these documents often stipulate that the offering should be made in wax again suggests that the concern here was for appropriate commemoration of their original owner as well as the securing of the patronage of the church for the freedmen. Some contemporary formulae of manumission give the same impression, by stipulating that freedmen who were being made 'completely free' but were to live under the patronage of a church would have to light candles at their manumittor's tomb, or pay a small sum of money for this purpose at important religious feasts (Easter,

⁷⁸ *St-Etienne de Dijon* no. 11 (pp. 24–5; online text: *Chartae Burgundiae Medii Aevi*: <http://philologic.cbma-project.eu/cgi-bin/philologic/getobject.pl?c.396:1.CBMA.2143>); see also no. 6 (no date, pp. 14–15) for a priest freeing his two *dilectae ancillae*, thanking them for their service, and leaving them under the patronage of the same church for the payment of one *denarius* per year (<http://philologic.cbma-project.eu/cgi-bin/philologic/getobject.pl?c.12786:1.CBMA.2086>); Deléage, *La vie rurale en Bourgogne*, p. 591; Barthélemy, *The Serf, the Knight and the Historian*, pp. 95–6.

⁷⁹ *Wissembourg* no. 68 (7 January 797): nine *servi* and *ancillae* are freed 'as if they had been born of free parents', without *obsequium*, with *peculium* granted, and *mundeburdium* given to Wissembourg (in exchange for four *denarii* on the feast of Saint Martin). In no. 191 (24 June 806), the woman Ratbirc gives five *mancipia* for the soul of her mother and husband, to be '*ingenui sicut alii censarii qui per talem condicionem sunt relaxati ingenui*', and to have their own *peculium*; their *mundeburdium* is to belong to the monastery, against payment of four *denarii* in wax or other goods on the feast on Saint Martin by themselves and their descendants (this is specifically said to be in exchange for protecting them and to provide lights). For *ancillae* freed under the *mundeburdium* of Wissembourg (against a *census* but with no labour duties): nos. 126 (788) and 166 (837).

⁸⁰ *St-Gall* I, no. 107: Craman frees Liupnia and her two daughters to be completely free, as if they had been born free, 'with Roman citizenship', with their *peculium*, and to go wherever they please, with their *mundeburdium* assigned to St-Gall, against payment of one *tremissis* per year.

⁸¹ *Regensburg* no. 93.

⁸² *Diplomata Belgica*, no. 55 (950 × 953), p. 148 (= *St-Peter's Ghent* no. 17): Erembert gives his *ancilla* Erkenburc with her children to St-Peter's, to pay two *denarii* every year (plus some marriage and inheritance dues), with their *peculium*, and with their *mundeburdium* assigned to the monastery. In no. 56 (6 March 955), the countess Adela grants full freedom to a *vernacula* and her son, as if they had been born free, with their *mundeburdium* assigned to the monastery, and to pay two *solidi* on the feast day of Saint Remigius.

⁸³ Beyer, *Urkundenbuch*, no. 79 (849): Bernarius gives complete freedom to his *vernacula*.

⁸⁴ E.g. *Freising* II, no. 1315h (957 × 994): *liber censualium*, p. 197: the freed *ancilla* Anna and her future children are to go where they please and live a free life.

Pentecost, Christmas), thus ensuring publicity.⁸⁵ These sums, typically ranging from two to four *denarii* each year, are more or less identical to those which freedmen who had to remain tenants also often had to pay for the same purpose; but there was a clear difference, since in tenants' case this sum came on top of rent and general labour services, whereas for non-tenants it seems to have constituted the sum total of their obligation, and did not restrict their mobility.

Accordingly, manumissions made in this way seem again to denote much more personal relationships, and a concern on the part of the manumittor not only to be remembered, but also to secure a good deal for his freed people. The freedmen created through this process should be strongly distinguished from the *liberti* who were only being freed because they happened to live on lands that were being transferred to a church: there is no evidence that these were ever manumitted individually, let alone at the altar. Nevertheless, this method of manumission has also been presented, especially by German historians, as ultimately leading to the emergence of a distinctly new type of ecclesiastical dependant and a 'half-free' status.

Manumission in church, at least in East Francia, has been seen by Stefan Esders as the key setting for the birth of a distinct legal category of *censuales*, whom German historiography has singled out as a 'half-free' kind of tied dependant.⁸⁶ The argument essentially rests on a clause in *Lex Ribuaria* according to which all dependants freed in a church, whether freed for the good of the manumittor's soul or against a redemption price, were to remain, along with their children, under the patronage of that church, which was to receive from then on 'the whole income of their status' (*omnis redditus status eorum*).⁸⁷ Since the arrangement also included any future descendants, and such freedmen (*tabularii*), in the interests of clarity, were forbidden from taking spouses of a different condition, Esders sees this as sowing the seeds for the growth of a separate legal class.⁸⁸ One may doubt whether this law

⁸⁵ *Formulae Marculfi* II, 34 specifies one of the manumittor's heirs (or, in a variant, a church) as the future patron, and asks for offerings and candles every year at the dead patron's tomb. For other examples involving praying or making offerings for the manumittor's soul and/or dues to be paid at major feasts: *Formulae Salicae Lindenbrogianae* 11; *Formulae Extravagantes* I, 20; *Collectio Sangallensis* 16; *Collectio Sangallensis* 17 goes a step further and gives a charter of freedom so that a *famulus* might become a priest in order to pray for his ex-owner (Zeumer, *Formulae*). On wax offerings, see Fouracre, 'Eternal lights'.

⁸⁶ This status is referred to in the literature as *Zensualität*, a false friend if ever there was one. The most recent and penetrating analysis of *Zensualität*, with a particular effort to place it in perspective of long-term change, has been put forward by Esders, *Die Formierung der Zensualität*. See also Schulz, 'Zum Problem der Zensualität im Hochmittelalter'; Matheus, 'Forms of social mobility'. The concept has also been applied by German historians to regions outside Germany: e.g. Claude, 'Freedmen in the Visigothic kingdom', p. 187: 'That process which in Central Europe was to lead over the centuries to the formation of a class of serfs out of the slaves and the *Minderfreien* (those whose freedom was in some way limited), had thus already begun to get under way in the Visigothic kingdom.' Heidrich, 'Freilassungen als Sicherung des Totengedächtnisses', p. 229, links the *census* to be paid by freedmen in *Collectio Sangallensis* 16 (Zeumer, *Formulae*) to *Zensualität* as a new type of status.

⁸⁷ *Lex Ribuaria* 61, 1, pp. 108–9; Esders, *Die Formierung der Zensualität*, pp. 50–9.

⁸⁸ Esders, *Die Formierung der Zensualität*, pp. 70–3; he explains this law as stemming from Merovingian kings' desire to nurture churches as significant lordships in Eastern regions, at a time when they were beginning to exploit church property to help to fund their war efforts.

in itself would have had the capacity to create such a class, since it is highly unlikely that the unfeasibly neat marriage rules expressed in written laws ever met with much success: they clearly did not manage to stop freeborn persons from marrying unfree ones, despite stipulating much greater sanctions against this.⁸⁹ But quite apart from this practical issue, it is also unclear how much control this law was in fact intended to grant churches over these freedmen, or that it was really turning them into dependants of the church where they had been manumitted. The ‘income from status’ mentioned in the text is likely to be referring not to regular dues collected from the freedmen themselves (which, as we have seen, hardly ever exceeded four *denarii*), but to the right to collect any potential compensation payments owed for any wrongs committed against them, in particular if someone tried to recall them into unfreedom. The stated fine for trying to do this was the huge sum of 100 *solidi*. These compensation payments were assigned to the church because it was the party intended to take action on behalf of the freedman. Compared to such sums, the few *denarii* the freedmen might have owed in annual dues would have been a small affair, and essentially designed to symbolize ritually the connection between the freedmen, their ex-owner, and the church itself. Compensation payments were clearly regarded as an important right and potential source of income, since the rest of the law spends a good deal of time severely discouraging anyone else from trying to take action on behalf of the same freedmen by fining culprits 60 *solidi*.⁹⁰ The council of Neuching, in 772, insisted that a church should receive the compensation payment (*pretium*) for the killing of any freedman who had been freed within it, confirming the importance of such rights to ecclesiastical lordships.⁹¹

For freeborn people, legal protection would have been secured through existing familial networks of support. A newly freed person’s existing network, however, might be non-existent, socially weak, or its other members either unfree themselves or vulnerable to accusations of unfreedom, so that a new, more effective network had to be summoned into being at the point of manumission in order to secure protection for them. While manumittors lived, they could be expected to protect their freedmen; but they knew their heirs would have a direct interest in reversing the process, so that these were often not the best choice of future protector (as with grants of land and all other kinds of alienation of property, heirs are typically mentioned in manumission sanction clauses as likely hostile parties). In effect, this law was setting up churches as ultimately responsible for the protection and well-being of any freedmen who had been freed at their altars, and, by granting them any compensation payments arising out of this protection, gave them a stake in upholding their freedom. The main benefit to churches came as a result of this legal jurisdiction, not because they were obtaining new rural dependants of their own in the process. This was clearly a significant enough benefit in

⁸⁹ On this, and the question of why this legislation was issued in the first place, see Chapter 6, pp. 233–6.

⁹⁰ *Lex Ribuaria* 61.2.

⁹¹ Council of Neuching (772), c. 10 (MGH *Concilia* II, 1, p. 101; for an English translation, see Hammer, *A Large-Scale Slave Society*, p. 87).

itself, and churches seem to have taken this responsibility seriously. Several canons of councils insist on the irrevocability of manumission in church, and churches' absolute right of protection (and jurisdiction) over the freedmen who had been entrusted to them.⁹² Two late sixth-century miracle stories from Gregory of Tours's *Virtutes Martini*, dealing with freedwomen re-enslaved by their patron's children after his death but freed once more through the action of the saint, suggest churches may have been trying to position themselves from an early date as the only effective guarantors of the permanence of a manumission, by warning manumittors of the untrustworthiness of heirs.⁹³

Securing the permanence of the arrangement clearly mattered a great deal to manumittors. Of course, protection could be a double-edged sword, and some formulae express fears that ecclesiastical patrons might abuse their position.⁹⁴ But church patronage could still offer a better chance for the manumission to be upheld than total independence: failing to secure a patron might make the manumission worthless in the long or even medium term.⁹⁵ Manumission in church or with church patronage was therefore probably chosen for freed people who had a more personal relationship with their owner than those merely transferred along with land, but who at the same time required more protection than those freedmen who had the skills or resources to secure a patron or defend their freedom in their own right (on whom more below). Although freedmen who had been individually freed in church in East Francia *did* have to live under special rules, because of the new position that had to be made for them in free society, none of this amounted to turning them into as-good-as-unfree dependants of that church.

The choice between manumission with a patron and manumission without could be simply determined on the basis of the predicted ability of the freed person to stand his or her ground in the face of a challenge. Two Bavarian cases, both involving the manumission of sons born to a free man and his slavewoman, show this quite well. In a document from Regensburg, from between 880 and 885,

⁹² Council of Orléans V (549), c. 7 (*Conciles mérovingiens* I, pp. 304–7); Council of Macon II (585), c. 7 (*Conciles mérovingiens* II, pp. 464–7); Council of Paris V (614), c. 7 (pp. 512–13); on these see Harper, *Slavery in the Late Roman World*, pp. 491–2. The Council of Paris III (556 × 573), c. 9 (*Conciles mérovingiens* II, pp. 422–3) also took care to state that those *servi* who were deputed to the upkeep of their master's tomb, if left under the protection of a church, should be protected as well as all their future descendants. Later, the council of Neuching (772), c. 9 (MGH *Concilia* II, 1, p. 101) ruled that freedmen who had been manumitted in church were not to be re-enslaved except for a very grave crime for which they could not offer compensation (which only means that they were to be subject to penal enslavement like everyone else: see Chapter 2).

⁹³ Gregory of Tours, *Virtutes Martini* II, 59 and III, 41.

⁹⁴ *Formulae Salicae Lindenbrogianae* 11: *ad defendendum non ad inclinandum*; *Formulae Bituricensis* 8: *non ad servitio adfligendo sed ad defensendam* (Zeumer, *Formulae*).

⁹⁵ *Formulae Imperiales* 34, 37 and 55, produced by someone working in the chancery of Louis the Pious, deal with residual business involving freedmen who clearly needed ongoing support: in them, the emperor was called on to confirm ownership by royal freedmen of a piece of land which they had bought outright, suggesting they felt a degree of insecurity in their holding; to make sure that the property of Albricus, a royal *actor* described as Louis's *fidelis*, would go to his children even if he died before having made a will; and to produce a written statement of his protection for two royal freedmen from Parma in Italy, who had come to Louis with their charters of manumission to ask for this (Zeumer, *Formulae*).

a certain Rathari dedicated to the church of Regensburg his *ancillula* Ellinpurga, 'whom [he] had bought through [his] own labour'. She was to pay no more than four *denarii* each year, and was to be allowed 'to live however she liked'.⁹⁶ Rathari was trying to protect Ellinpurga from any risk of re-enslavement by his own family after his death, but he was also securing their children's inheritance: his three sons by her were also freed in order to become his heirs, but, in contrast to their mother, without an ecclesiastical patron. If Rathari and Ellinpurga's sons had never been treated as unfree within his household, it may be that they did not require the same protection as their mother, who had been bought as a chattel. Perhaps Rathari simply did not want his own children implicated in a type of protection typically reserved for socially weak people; the high likelihood that they would face hostility from other relatives and potential heirs of Rathari's clearly required different preparations in their case. The same concern may explain why, in a not dissimilar case from 839, also from Bavaria, Ratolt, a member of the military elite and father of a bishop, failed to specify any continuous relationship of patronage when he transferred to Bishop Erchanpert of Freising, along with a substantial gift of property, his 'son and slave' (*servum suum et filium*) Sasso, so that he might be freed. Ratolt was clearly an important enough man, and his gift significant enough, that the bishop could be expected to do the right thing and offer protection from then on without the need to confer upon Sasso a permanent bond with unacceptably low-status connotations.⁹⁷ Rathari may likewise have been hoping that Regensburg could be relied upon to step in to defend his children's freedom as well as their mother's. Either way, writing the document in this way gave the church a continued stake in his wishes being observed: although Rathari was careful to say the arrangement had been made in the presence of his brothers, he must have known they might easily turn against Ellinpurga and their sons after his death.

That manumission with a patron was not intended to create a new type of dependant so much as to protect more vulnerable freed persons may explain the relative numerical dominance of apparently unmarried women (sometimes with their children) in this type of documentation, since they would automatically have found themselves in a more uncertain position.⁹⁸ This evidence contradicts Susan Mosher Stuard's notion that women would not have been freed as often as men—though they may have needed more guarantees, and therefore more often have been assigned a patron.⁹⁹ (It is also worth noting that women also dominate in individual manumissions issued by Carolingian kings; perhaps these manumissions

⁹⁶ *Regensburg* no. 93.

⁹⁷ *Freising* 1, no. 634, pp. 538–40. On this and the previous case, see Hammer, 'The handmaid's tale', at pp. 354–5. Compare *Mondsee* no. 20 (837), in which a free man secured a remission of service (rather than formally a manumission) for his sons by an unfree woman, and made sure they would only be made to perform *honestia servicia*.

⁹⁸ We have already seen how, in Ghent, several women who had not been unfree in the first place gave themselves under similar terms to obtain just this sort of protection, suggesting lone women in general were likely to need this kind of support more than men: see Chapter 2, p. 55.

⁹⁹ For the claim that women were freed less often than men in royal manumissions: Stuard, 'Ancillary evidence', pp. 6–7. For examples of women (often single and with children) in manumissions, see above, nn. 73, 78, 79, 80, 81, 82, 83, and 84. See also Chapter 4, pp. 160–5.

reflected a prior or existing sexual connection, though this is only known for sure in the case of Lothar I and his freedwoman Doda.¹⁰⁰

The existence of relatively independent freedmen alongside the more subjected ones documented in land grants and polyptychs is confirmed by formularies, which are potentially less misleading in their coverage, since their preservation did not depend on their ability to enshrine ecclesiastical rights in the long term, but instead on whether they were thought useful as models on a day-to-day basis.¹⁰¹ The manumissions surviving in formulae are overwhelmingly 'personal', individual manumissions.¹⁰² The majority of examples grant full freedom in every respect, giving the freedman or freedwoman, in varying combinations, Roman citizenship, the right to live 'as if they had been born of free people', to work for themselves, to go and live wherever they wanted and to choose any patron they liked, along with a guarantee that no duties of any kind would be required from them nor their freedom revoked, whether by the manumittor's heirs nor by anyone else.¹⁰³ Although many of these models were composed in the Merovingian period, they continued to be copied in the Carolingian period up to and including the tenth century, so at least some scribes throughout the early middle ages clearly felt they would need to write documents granting the very fullest type of manumission. Of course, these manumission formulae may be misleading, because their wording could well be overstating the extent of the freedom being granted in order to emphasize the ex-master's generosity. It is impossible to disprove the possibility that, as in some eleventh-century cases discussed by Dominique Barthélemy, such 'full' manumissions might have been immediately followed by another act handing the freedman over to a church, and, just to cover all possible bases, yet another by which the freedman gave himself to the same church.¹⁰⁴ But it is hard to imagine a situation of this type lurking behind every manumission, particularly when there is no evidence of such equivalent 'montages' of documents prior to the eleventh century (had they existed, formularies would have given us a good chance of finding some, since they often helpfully present in sequence models for documents

¹⁰⁰ Charlemagne freed an *ancilla* named Sigrada (*DKar.* I, no. 115); Louis the Pious freed Agradia (*Formulae Imperiales* 1: Zeumer, *Formulae*); Lothar I freed his *ancilla* Doda in 851 (*DLothar I*, no. 113, pp. 262–3)—his mistress according to the *Annales Bertiniani*, s.a. 853 (he freed her just after the death of his wife Ermengard, and their son, very unusually for illegitimate Carolingians, was given a royal name, Karlmann, though he got nowhere in the succession).

¹⁰¹ Rio, *Legal Practice and the Written Word*, p. 25.

¹⁰² There are three exceptions, dealing with random manumissions of a set number of unfree dependants, which still extended similar rights to them as to the others: *Formulae Marculfi* I, 39 (above, n. 71); *Formulae Bituricensis* 8, a blanket manumission of one tenth of the dependents of a church; and *Collectio Sangallensis* 16, freeing fifty *mancipia* for the sins of the manumittor (Zeumer, *Formulae*).

¹⁰³ *Formulae Arvernenses* 3–4; *Formulae Marculfi* II, 32–3 (the latter specifying, however, that the freedman had to continue to serve his ex-owner until the latter died); *Formulae Turonenses* 12; *Formulae Bituricensis* 9; *Cartae Senonicae* 42 and *Appendix* 3; *Formulae Salicae Lindenbergianae* 10; *Formulae Salicae Lindenbergianae* 20; *Formulae Argentinienses* 1; *Formulae Augienses Coll. B* 42; *Collectio Sangallensis Additamenta* 2 (in which *fideles* of the king exchange two *mancipia* of their own to redeem one *servus*, asking the king to free him, for reasons best known to themselves); *Formulae Extravagantes* I, 16 and 18. *Cartae Senonicae* 43 is a redemption for a number of *solidi*, but the manumission is still presented as a reward for service. Zeumer, *Formulae*.

¹⁰⁴ Barthélemy, 'Qu'est-ce que le servage', p. 256; see below, pp. 107–10.

relating to different phases of a single process). In any case, there were clear variations in the terms of manumissions covered by formulae, which suggest scribes were not bound, by virtue of documentary continuity, to write charters granting full freedom only to take it back in a separate document.

Formularies cover the whole period up to and including the tenth century, and so constitute relatively robust evidence that all forms of manumission, from the fullest to the most heavily dependent, remained in use throughout the early middle ages. They are virtually the only source to preserve examples of completely free manumission with no specified protector. The only exceptions among actual documents are royal manumissions, of which a handful survive; presumably they were worth preserving by virtue of recording a pious royal act.¹⁰⁵ There are also, however, a very few surviving examples of elite freedmen from this period. The two best-known cases are again royal freedmen: Leudast in the late sixth century, and Ebbo of Reims in the ninth, who became respectively a count and an archbishop. In both cases, we only know that they had been unfree in the first place because the people who wrote about them happened to feel particular loathing for them, and used every piece of ammunition that came to hand (Gregory of Tours in Leudast's case, Thegan in Ebbo's); it is no coincidence that this information came up only once these freedmen had eventually fallen from grace.¹⁰⁶ Another, less unhappy example is Engilpoto, known from a document from Freising. He made a substantial gift of property to this church in 819, describing himself only as a *laicus*, in an elaborate ceremony which took place at the imperial court in Aachen. A document appended to the donation, however, made clear that he had been a *servus* before being freed by his owner Keyla, the wife of the Bavarian duke, who entrusted him (*in fide et caritate commendavit*) to bishop Hitto of Freising; Engilpoto then bought himself the property. Keyla confirmed this on the day, presumably so that she might be associated with both the ceremony and the act of donation.¹⁰⁷ These three cases hint at possibilities for social mobility for freedmen akin to what had been possible under Rome. Unfortunately for historians, it is precisely those freedmen who were capable of the most independent action who are also those least likely to be identified as such in the source material, unless there was a particular reason for doing so.

All this suggests that, as in Italy and Spain, there were many different ways of manumitting, depending on personal circumstances and purposes. The variables included such considerations as whether the freedman had enough skills and resources to offer to be able to obtain support and protection off his own back and achieve economic independence, and to serve his ex-owner through his ability to build informal connections; how likely he was to require a legal patron to help defend his freedom in the future, or whether he could instead hope to rely on more informal networks of protection; whether he would continue to live on the same

¹⁰⁵ See above, n. 100, for manumissions of *ancillae* by Carolingian kings. Odo: *Cartulaire noir de la Cathédrale d'Angers*, no. 39, pp. 86–7. Æthelstan: see below, n. 150. Henry I: see below, n. 120.

¹⁰⁶ Gregory of Tours, *Historiae* V, 48; Thegan, *Gesta Hludowici Imperatoris*, c. 44.

¹⁰⁷ *Freising I*, no. 397c; for an English translation: Hammer, *A Large-Scale Slave Society*, pp. 60–1.

land he had previously occupied, and, if so, whether this land had been granted to himself as his *peculium*, whether it would instead remain in the hands of his ex-owner's heirs, or whether it was being transferred to a religious institution (in which case the manumission was more likely to have been a pious afterthought than the donor's main priority). What we see, then, is not a steadily deteriorating condition, but, instead, additional functions for manumission. The main innovation was the flexible use of freedmen to create new relationships with other landowners, which led to freedmen being created who, in the Roman model, would simply have been left as slaves.

Surviving Carolingian documents, although by nature slanted towards over-representing the most dependent types of freedmen, do not provide strong evidence that freedmen in general were finding themselves in an increasingly subjected position. Some of them were, but the only context that really makes sense for them is the very specific context of transfers of land to a church along with a partial manumission of its rural workers. As with earlier Roman *operae* (that is, explicit, legally enforceable work to be undertaken for the patron), freedmen were essentially tied to specific and continuing duties only in the context of transfers of patrimony, and when someone besides their ex-owner was involved.¹⁰⁸ For all other freedmen documented for this period, there is no real evidence that manumission had started to mean anything less than it had under the Roman Empire—though the broader changes that had taken place in free society inevitably meant that different pressures had to be taken into account in defining freedmen's rights and protection.

The tenth and eleventh centuries

This picture contrasts sharply with that reconstructed by Dominique Barthélemy on the basis of eleventh-century French cases, chiefly drawn from the *Book of Serfs* of Marmoutier—in this case as in others the fullest source of evidence for unfree people at this end of our period.¹⁰⁹ Early medieval manumissions in French historiography after Bloch had lost some of their relevance to the wider debate over the transition from slavery to serfdom as a result of the advent of the 'feudal mutationist' school. In that model, the dominance of eleventh-century private lords is privileged as the single pivotal cause of the appearance of serfdom to such an extent as to dwarf any earlier possible changes (the existence of earlier change is acknowledged to varying extents by different proponents of this theory, but none regards them as crucial). Manumissions did not become, then, a keystone in the French feudal mutationist edifice one way or the other, and historians from this school of thought have tended to remain uncharacteristically agnostic on this issue.¹¹⁰ Manumissions were only

¹⁰⁸ Mouritsen, *The Freedman in the Roman World*, pp. 224–6, doubts that defined *operae* had been very important, and sees them as applicable mostly to those freedmen who exercised professions for which they received a fee or a salary, or when their employment was for some reason discontinued, e.g. in testamentary manumission; contra Waldstein, *Operae Libertorum*.

¹⁰⁹ Barthélemy, *The Serf, the Knight and the Historian*, pp. 94–104; Salmon, *Le Livre des serfs*.

¹¹⁰ Poly and Bournazel, *La mutation féodale*, p. 124: 'L'une des causes de la diminution du groupe servile est indéniablement l'affranchissement mais il est bien difficile, sinon impossible, d'en mesurer

brought back into the debate through the onslaught against feudal mutationism led by Dominique Barthélemy. He, like Bloch, presents eleventh-century freedmen as virtually indistinguishable from the rest of the servile population, but he is much more extreme in denying that manumission led to anything like freedom, and sees it as just a form of transfer of unfree dependants to a church. For him, by the eleventh century, manumission was used not to grant freedom to dependants, but as a belt-and-braces method of laying the ground for their transfer, by severing explicitly and completely any links they might have been seen to have with their ex-owner.¹¹¹ Barthélemy thus reads all manumissions from the tenth and eleventh centuries as designed not to free dependants so much as to pave the way for a new tie of dependence to be created, without fear of a challenge from the initial owner. By this reading, manumitted people were never actually freed except as part of a legal fiction: they remained *servi*, only belonging from then on to a new owner.

This reading forms part of Barthélemy's wider argument that serfdom in the eleventh century was a collection of disparate duties and services owed, rather than really amounting to a legal status in any technical sense.¹¹² In this view, unfree status did not split society into two groups; freedom and unfreedom did not have inflexible, objective definitions, but were relative terms signifying a looser and more symbolic sense of hierarchy in services owed. This model allowed Barthélemy to make a very nuanced reading of self-donations, insisting on the wide range of different possible reasons for the deployment of unfree status, which came into play while fine-tuning the relationship between the monastery and new or existing dependants: in the case of self-donations, change in legal status did indeed express, and was directly connected with, the establishment (or re-establishment) of particular services.¹¹³ Manumissions, by contrast, constitute more of a problem in Barthélemy's scheme, because they involved changes in legal status that evidently did *not* always go hand in hand with changes in services rendered—implying a

l'ampleur.' The part of Bloch's argument relating to the massive scale of manumission has been questioned, notably by Georges Duby and Pierre Bonnassie. Duby, *La société*, p. 205, doubts that manumissions were ever very frequent. Bonnassie also doubts that the early medieval church was much interested in popularizing manumission: 'Survie et extinction', pp. 323–4 (though see also p. 342, on manumission for economic reasons).

¹¹¹ Barthélemy, *The Serf, the Knight and the Historian*, pp. 96–7, on the merging of manumission formulae and donation formulae in documentary practice. Barthélemy has also persuasively argued that many manumissions could have been renegotiations or compromise solutions reached in claims made by lords over peasants, since a manumission, although amounting on the face of it to a rejection of unfree status, still implied the peasant's acceptance that he had previously been unfree, and also established that he would give service as a freedman: 'a rise in manumissions meant not a retreat of servitude but an advance of the concept' (p. 102; from the French edition, pp. 131–2: 'Quand on affranchit beaucoup, ce n'est... pas que la servitude recule, mais qu'elle fait rage').

¹¹² Barthélemy, *The Serf, the Knight and the Historian*: 'there were servile tributes and servile constraints in the post-Carolingian centuries, but no pure life in servitude' (p. 94); 'No one... in tenth- and eleventh-century France had a strong concept of a plurality of differentiated servile statuses. Only one was actually recognized, even if it was described in a piecemeal fashion' (p. 95). For the same reason, Barthélemy does not believe in intermediary statuses: 'Historians alone have invented such expressions as "half free"' (p. 94); 'The half-free existed only in practice, never in principle' (p. 100). In this sense he distances himself from Bloch here.

¹¹³ Barthélemy, 'Les autodédications en servage'.

greater significance for legal status independently of the performance of service. Barthélemy's answer to this problem is a very interesting one, and is strongly borne out by several documents from Marmoutier: not just by examples of manumission followed directly by self-donation,¹¹⁴ but also by others, in which *servi* are freed *and* donated to Marmoutier within the same document. In these cases it is clear that the freedmen would continue to perform the same service, but from then on for the monastery instead of their previous lord.¹¹⁵ In some cases, then, Barthélemy's interpretation is clearly correct, and it is certainly meaningful that manumissions were not simply the mirror image of self-donations: self-donations, at least in this cartulary, always seem to have involved entry into service, but manumissions did not necessarily take it away. There is no need, however, to go as far as he does in stressing that *in all cases* manumission was really just a donation, and that 'the few manumissions that lack such clauses are only acts that lack contextual detail'.¹¹⁶

It is a little odd that Barthélemy, who has written so well on the diversity of conditions unfree people lived under, should be so insistent on taking manumission as a monolith, rather than as an intensely customizable practice, capable of taking on as many different functions as there were different kinds of dependants. Other examples show that not all freedmen were necessarily this kind of freedman. Barthélemy contrasts, for instance, two documents from the abbey of Nouaillé: one is a manumission/donation and therefore fits his model; the other is (at least purportedly) a 'full' manumission.¹¹⁷ It is difficult to accept the argument that the difference between the two is only down to lack of contextual detail in the second document: the latter is in fact much more elaborate in its description of the freedom it was granting (including the right for the freedman 'to live and work for himself'), and in that sense is not less detailed; it simply had a different emphasis. More strikingly, in this case the manumission was performed in front of Isembert II, the bishop of Poitiers, and the document stipulated the eye-popping fine of a thousand gold *solidi* if anyone tried to claim this freedman back into unfreedom. A similar gap between different sorts of freed people can also be found in the archive of St-Maixent, which also contains a document of manumission/donation, as well as another case where a man was freed by the abbot in a very formal way, with his *peculium* granted to him, and again with a penalty clause stipulating a

¹¹⁴ Salmon, *Le Livre des serfs* no. 10 (= no. 63, the case of Durand Garin); no. 43 (Barthélemy, *The Serf, the Knight and the Historian*, pp. 41–3).

¹¹⁵ Salmon, *Le Livre des serfs* no. 113 and Appendix no. 57 (1184). Barthélemy, *The Serf, the Knight and the Historian*, pp. 95–8 (p. 98: *liberti* were 'free' only in the sense that land given to the church had to be 'free' of lay intrusion and bad customs). For similar examples outside the *Book of Serfs*: Cluny III, no. 2220 (p. 362): *liberatio vel donatio*, with service owed to no one save St-Peter. Nouaillé no. 99 (1016): '*Tradidimus Deo et sancte Marie semper virginis*' one *servus* called Peter and his sister Stephana, followed by a statement that this *ingenuitas* is to remain firm. St-Maixent, no. 92 (1031–3), a transfer of freedmen to the abbey along with 'everything they have done for us', despite the claim to be turning them into *cives Romani*; no. 104 is a simple donation, referring to freedmen at the beginning but not in the rest of the text.

¹¹⁶ Barthélemy, *The Serf, the Knight and the Historian*, p. 97.

¹¹⁷ Nouaillé no. 99 (1016), above, n. 115; no. 126 (1077).

thousand gold *solidi*.¹¹⁸ It seems perverse to argue that we are not dealing with a wide spectrum of people in all these documents, and therefore with quite different uses and meanings for manumission as well. Barthélemy argues that the difference must be that, in both the Nouaillé and the St-Maixent document, the abbot was manumitting his own men, so that there was no need for the text of the charter to detail the service to which the monastery would still be entitled from the dependant; but assuming that these freedmen were in the same situation as those who were simply being transferred is taking the evidence at reverse value.¹¹⁹

This suggests that other, less obviously remarkable cases claiming to grant complete freedom may be less misleading than Barthélemy thought; there is no reason to assume all of them were merely covert donations (and there are certainly a lot more such ambiguous cases than there are of the clear manumission/donation type).¹²⁰ Clearly the freed people involved must have retained or formed some relationship with the religious institutions that kept their records, otherwise there would have been no reason for the latter to keep the documents or, in Marmoutier's case, enter them in the *Book of Serfs*. But this might have been considered worth doing even if the monastery was not getting very much out of these freedmen, or just barely enough to make it worthwhile bothering with their protection, as Carolingian churches had done with freedmen who were not their own tenants. Even when it was immediately followed by an act of self-donation, and the freedman then entered into the service of the monastery, presumably the terms on which this might be done could be just as varied as those involving self-givers who had not been previously unfree.

The argument that manumissions never made any difference also begs the question: why do it at all? A simple donation document recording the transfer of dependants would have given the monastery the same level of guarantee as a manumission. A donation on its own was certainly thought to be enough for the job in

¹¹⁸ Freedom granted at the same time as a transfer of the dependant: *St-Maixent* no. 92 (above, n. 115) and no. 104. Contrast no. 111 (1047–9), which is much more thorough in the list of rights granted, including *peculium* ('quod proprie videtur possidere ab odierna die, et quod in reliquum adquisierit, concessum sibi et secum habebat libertatem').

¹¹⁹ Barthélemy, *The Serf, the Knight and the Historian*, p. 97, n. 122. Salmon, *Le Livre des serfs*, *Appendix* no. 57, at least, suggests that when monks did not want freedom to mean diminished service in the case of one of their own dependants, they certainly took care to say so.

¹²⁰ Salmon, *Le Livre des serfs* nos. 51, 52, 59, 73; *Appendix* nos. 37, 49 (one hundred-*solidi* penalty clause), 52, 53 (again one hundred-*solidi* penalty clause), 60. *Appendix* no. 17 is a manumission by the French king Henry I: a cleric asked him to free his man named Ainard, and Henry obliged by throwing a *denarius*, in time-honoured fashion; presumably this royal ritual was a way of consolidating the manumitter's relationship with the king as well as reinforcing the manumission itself (anyone attempting to re-enslave Ainard would be fined one hundred *solidi*). In no. 76, a woman who had married a *servus* of Marmoutier and whose children had died 'apart from one son and one daughter' asked for her daughter to be freed so that she could marry a free man; this was granted by the abbot on condition that her brother remain unfree. Salmon, *Le Livre des serfs* no. 117 is too terse to give any idea of terms. For cases of 'full' manumission after marrying a *servus* of Marmoutier: no. 58 (the woman gets her freedom in exchange for returning the *dos* she had received from her husband); also *Appendix* no. 18 (though here the husband paid for the redemption of his spouse). Other examples of apparently 'full' manumission: Blois, Loir-et-Cher, Archives départementales 16 H 83, no. 13 (c. 1101) (ARTEM no. 2029; Salmon, *Le Livre des serfs*, *Appendix* no. 53, pp. 178–99); see also no. 14. Also *Nouaillé* no. 126 and *St-Maixent* no. 111, discussed above.

many other cases from the *Book of Serfs*, which contains far more donations which did not include an intervening act of manumission than ones that did.¹²¹ One document from Flavigny, despite beginning with an opening clause on the virtues of manumission, recorded that the giver had decided to give his *servus*, but explicitly *not* as free man.¹²² The difference must have mattered beyond the level of diplomatic choice.

There is little evidence, then, that manumission, even by the eleventh century, had converged towards one function and one function only. Two distorting factors could contribute to making these people (and their acts of manumission) look more like each other than they probably were. We have already met the first, namely, the obvious predominance of church documentation, which, as I argued earlier, is likely to present a very distinctive pattern, which should probably not be extended to freedmen in general. The second is that, here even more than in Carolingian manumissions, we get very little sense of what the terms may have been, or of the connection between the manumission on the one hand, and material support and land tenure on the other. This means we cannot distinguish between churches as patrons and churches as landlords, and this conflates under a single heading the wide variety of people we saw at least occasionally distinguished in earlier documents. What makes the *Book of Serfs* in particular potentially misleading is that its documents are exclusively about people (the title says it all), with hardly any explicit connection being made between them and arrangements over land. In the end, we simply cannot know whether those dependants manumitted into the lordship of Marmoutier paid similar dues or owed as much by way of labour duties as those who had become unfree through self-gift or as a result of a dispute, so it is difficult simply to assume that the manumission was merely a legal fiction intended to sever ties—as opposed to its by then more established function of recreating and reinforcing them.

A similar point regarding the masking of significant diversity in surviving documents can be made about Eastern Frankish regions and *censuales*. As we have seen, the majority of freedmen in the East from the Carolingian era onwards have been seen by German historians as feeding into a category of dependant, half-free *censuales*. As well as freedmen, the category included free people who might donate themselves under the same terms. The *liber censualium* of Freising, from the late tenth

¹²¹ On the other hand, see Salmon, *Le Livre des serfs*, Appendix no. 18, which shows a charter of manumission was sometimes not sufficient if heirs decided to be difficult. One case that might support Barthélemy's theory that manumission could be an important argument in cases of later dispute is no. 70, in which a certain Lancelin had given his *servus* Adelelm to Marmoutier; after his death, however, Hilgod, from whom Lancelin had originally held the *servus*, claimed him as his own, 'because he did not have a charter'. This could conceivably refer to a charter of manumission/donation, since the *servus* seems to be the one who should have had the charter; or it could simply mean that there was no charter of any kind to show that Hilgod had approved of the transaction. Either way, the *servus* clearly still felt that he was better off with Marmoutier, since he paid Hilgod seven *denarii* in order to be allowed to continue to serve the monastery.

¹²² Bouchard, *The Cartulary of Flavigny*, no. 46 (November 1019). Barthélemy argues this is just calling a spade a spade (*The Serf, the Knight and the Historian*, p. 97: 'This text does not contrast with the other acts of "liberation-donation" but provides an orthodox explanation for them, i.e., that their object was transfer, not emancipation').

century, shows a wide variety of different reasons for entry into this type of relationship, from either a free or an unfree starting-point; different means of coercion, sometimes allowing re-enslavement for consistent failure to pay dues, sometimes not; and different levels of support provided by the institution—sometimes involving the provision of sustenance, or a tenancy agreement, sometimes merely a loose relationship of legal protection.¹²³ As with freedmen, and indeed free peasants in general, *censuales* could either be relatively independent and free of movement, or obligated as a result of a tenancy agreement; either way, their level of oppression was not determined by the status itself so much as by varying degrees of social weakness—of which manumission into an uncertain world might be one cause, but far from the only one.

There is a major cache of documents for this type of dependant from St-Peter's, Ghent. In this archive the word is not *censualis*, but *tributarius* (or rather *tributaria*, since the vast majority of those concerned are women), but it amounts to the same thing. On the basis of these records, this looks like an extremely unified category: regardless of whether people were entering this category from freedom (self-donations) or from unfreedom (manumissions), what they had to pay was nearly always the same throughout the period covered by these documents, from the tenth to the twelfth century—that is, two *denarii* each year for legal protection (*mundeburdium*), six payable on marriage, and twelve payable on inheritance. The twelve *solidi* for inheritance do not necessarily imply that the land always now belonged to the abbey by virtue of the agreement, but rather that the abbey, in exchange for this payment, would take on the responsibility to help secure claims to inheritance. These payments are pretty much identical to those identified by Bloch as hallmarks of unfreedom in France, under the names of *chevage*, *formariage* and *mainmorte*.¹²⁴ But the people who had become *tributarii* of St-Peter's were evidently diverse, and it seems that, as in Freising, rather than constituting a status category of their own, they could include people of different legal statuses, whether free or unfree. Among the women who became *tributariae* of St-Peter's, there were some who had been born free and were becoming unfree;¹²⁵ some who were free and explicitly demanded to remain so;¹²⁶ some who were already unfree and were being transferred without being manumitted (or at least were not manumitted explicitly);¹²⁷ and some who were being manumitted at the same time as

¹²³ Freising II, no. 1315 (pp. 194–9) shows many people could become *censuales* on different terms, and from a variety of different starting points.

¹²⁴ Esders, *Die Formierung der Zensualität*, pp. 61–73. Bloch's conclusions regarding a generalized serfdom covering most of the population based on the payment of 'servile' dues was challenged by Léo Verriest, who argued against taking the payment of such dues as characteristic of unfree status (Verriest, *Institutions médiévales*, pp. 168–70). In practice, no particular due or duty was everywhere *inherently* characteristic of unfree status and of unfree status alone; Carrier, *Les usages de la servitude*, p. 186.

¹²⁵ St-Peter's Ghent nos. 108; 155; 158 ('*in ancillatum vel famulatum*'); 172; 174; 195; 210; 221; 226; 227; 234; 279; 280; 316; 348; 350; 367; 378.

¹²⁶ St-Peter's Ghent nos. 27 (959) and 128 (1050).

¹²⁷ St-Peter's Ghent nos. 60, 104, 105, 114, 139, 153, 154, 182, 211. Donations without manumission outline the same terms, so it may be possible to reverse Barthélemy's interpretation, and to read some donations as actually closer to manumissions in their effects (see Hyams, 'La joie de la liberté').

transferred.¹²⁸ A couple of the self-givers describe themselves as being born 'of noble families'.¹²⁹ The fact that they paid the same amounts to the monastery does not, then, mean that there was a great deal else uniting people who fell under this category. Here as in the *Book of Serfs*, the monastery was only interested in recording the rights that mattered to it directly, as opposed to the situation these people were in more broadly. This, coupled with the use of a nearly identical formulary to refer to all these different kinds of people, gives an impression of similarity which is almost certainly deeply misleading. Without knowing the terms under which these dependants held their land, it is impossible to judge what their likely level of subjection or freedom may have been. There is no reason to assume that those among them who had been manumitted would necessarily have constituted a more unified legal or socio-economic group than any of the others. Either way, *tributarius* or *censualis* was clearly not a status which reflected anyone's whole social condition, so much as a way of pinning down one specific type of due to a church, which may well have been very marginal in these people's experience of life. It does not even tell us whether or which of these dependants had to pay the same church any other dues by virtue of also being its tenants. German historians' *census* or French historians' *chevage* did not denote a status; it denoted a relationship.

Manumission in the central middle ages does, then, look different in comparison to the earlier period, but there is no sign that it became simpler or more predictable, whether by losing any practical meaning (Barthélemy) or by contributing to the creation of a special class of dependant (Esders). What greater simplicity there appears to be is largely a function of an increasing tendency to mention freedmen without any reference to their means of support. Although the surviving documentation does not allow us to make many distinctions between the different conditions freedmen might live under, it does suggest that there is a fundamental problem with considering them as a coherent group at *any* point in time, and with assuming them *all* to have been any one thing unambiguously—whether free,¹³⁰ unfree,¹³¹ or half-free.¹³²

The evidence for Frankish regions from the Merovingian period down to the eleventh century does, then, present signs of change, but it is not the sort of change most historians have so far identified. It did not follow a single trajectory aiming freedmen in the direction of ever greater subjection. The vast majority of the surviving documentation concerns churches, out of all landowners those likely to house disproportionately high numbers of more heavily subjected freedmen on their lands, as a result of donors' concerns with perpetuating their own memory.

¹²⁸ *St-Peter's Ghent* nos. 66, 72, 79, 81, 129, 134 (though the reference to manumission here is only in the arenga), 147, 165, 188 (fragmentary but almost certainly a manumission as well as a donation, since it uses much the same formula as no. 81), 216, 282, 390 (end of the twelfth century, and for a redemption price).

¹²⁹ *St-Peter's Ghent* nos. 137 and 251.

¹³⁰ Déléage, *La vie rurale en Bourgogne*, p. 593; Dollinger, *L'évolution des classes rurales en Bavière*, p. 333.

¹³¹ Barthélemy, *The Serf, the Knight and the Historian*, pp. 94–104; in a different way, Bloch, 'Les coliberti'.

¹³² Esders, *Die Formierung der Zensualität*; see also above, n. 86.

But even on this highly distorted documentary basis, it is very hard to see manumissions as having taken place on a systematic and regular enough basis, whether in terms of numbers of freedmen or in terms of the rights and duties that were attached to them, as to create a coherent 'class' out of which central medieval serfdom might be said to have emerged. Owners throughout the period overwhelmingly continued to manumit selected individuals, under a wide variety of different terms, cobbled together to fulfil manumittors' own priorities as well as to create a viable place for these individual freedmen in the wider, and in some ways dangerous, social world they were now joining.

ANGLO-SAXON ENGLAND

Anglo-Saxon England offers a very different source base. There are remarkably few laws dealing with manumission,¹³³ and hardly any documentary examples up to and including the ninth century.¹³⁴ From the tenth and eleventh centuries, however, we find a wealth of material unparalleled on the Continent, consisting in two types of evidence very scarcely documented elsewhere: lay and ecclesiastical wills on the one hand, and individual acts of manumission on the other. The latter survive in exceptional numbers because they were copied into the margins of gospels and other religious books.¹³⁵ These two contexts mean that the religious motivation for manumissions has been even more dominant in the historiography of Anglo-Saxon England than for elsewhere in Europe, though, as we shall see, these texts reflect a wide number of different agencies and strategies at work.

Wills provide the main evidence for mass manumissions, when testators stipulated that all, or sometimes just half, of the dependants living on a given estate were to be freed after their death.¹³⁶ The indiscriminate nature of some of these manumissions, and therefore the absence of any connection with the quality of individual service, is most obvious in a late, post-Conquest will preserved in the Ramsey Chronicle, in which a certain Æthelstan son of Mann ordered that, on all the lands which he was giving to the churches of Ramsey and Ely, thirteen men out of every thirty ought to be freed: these were to be chosen by lot (*sors*) and taken to a crossroad, and from there to go where they pleased.¹³⁷ Although the text says that this was to be done *per omnes terras suas*, this clause is placed in the first section

¹³³ See Wihtrud 8 (Attenborough, *Laws*), from the seventh century, which specifies that manumission at an altar meant freedom; this law uses the same rare term as Lombard law (*folcfrý*), but here the ex-master retained inheritance rights, the right to collect *wergeld*, and *mund* over his dependant.

¹³⁴ Notwithstanding the famous example of Wilfrid's manumission of 250 people living on lands granted to him to found a monastery (perhaps as a way of binding them more personally to himself?): Bede, *Ecclesiastical History* IV, 13; Pelteret, *Slavery in Early Mediaeval England*, p. 137.

¹³⁵ For this practice see Davies, 'Latin charter tradition'.

¹³⁶ Pelteret, *Slavery in Early Mediaeval England*, chapter 4; Tollerton, *Wills and Will-Making*, pp. 183–6.

¹³⁷ *Chronicon Abbatiae Ramesiensis* c. 33 (p. 59); Pelteret, *Slavery in Early Mediaeval England*, p. 124. The crossroads ritual turns up in other Anglo-Saxon documents, and has parallels in Lombard law (Pelteret, *Slavery in Early Mediaeval England*, pp. 143–5).

outlining the details of property Æthelstan was leaving to churches; it is unlikely that this provision was meant to apply to the lands listed further on in the text, which he was leaving not to a religious institution, but to his wife, son, and other relatives.

This much, at least, is suggested by the evidence of earlier wills, which clearly indicate that there could be a significant difference between, on the one hand, patterns of manumission involving dependants who were living on lands that were being granted to religious institutions, and, on the other, those on lands which would remain in the hands of family members. The mid-tenth-century will of Theodred, bishop of London, distinguished between lands which he was leaving to St-Paul's, on which all unfree dependants were to be freed for his soul, and those lands which he was leaving to his nephews.¹³⁸ On the latter, he only asked for half of the dependants to be freed, and only on two estates out of the nine bequeathed. Other kinsmen, who only received a single estate each, received them without any manumissions being required. Clearly Theodred was giving his sister's sons, as well as St-Paul's, chief responsibility for the preservation of his memory, and the freedmen were presumably part of this project, as we saw in the case of Bertram of Le Mans. Theodred was, however, careful to leave his nephews a more exploitable workforce.¹³⁹

This pattern applies to most of the lay wills: in the vast majority of cases, testators only stipulated blanket manumissions on lands that were being transferred to a religious institution, and made no such demands for lands which they were leaving to their kin.¹⁴⁰ There are only two examples in which the stipulation for the mass manumission of *all* unfree dependants extended to lands left to kin members, and it may be significant that in both cases the testator had no son (daughters may have been less dependent on property handed down in their parents' wills, if they were expected to rely more on a husband's marriage gift for material support).¹⁴¹ Perhaps

¹³⁸ Whitelock, *Anglo-Saxon Wills* no. 1 (942 × 951); Sawyer 1526.

¹³⁹ Pelteret, *Slavery in Early Mediaeval England*, pp. 120–1, notes more slaves were manumitted on land belonging to or going to churches in Theodred's will, but explains this in religious terms, by saying Theodred may have felt free workers were more appropriate on church lands.

¹⁴⁰ Æthelflæd (Whitelock, *Anglo-Saxon Wills* no. 14) freed half of the men in every village (*tun*), but virtually all estates were to go to religious institutions (some were left to her sister, but in usufruct only, and were afterwards to revert to churches), apart from a few hides here and there; apparently she had no children. Wulfsgie (no. 27) specified men were to be freed only on lands given to a church (Bury St Edmunds). Thurstan (nos. 30–1) says the men were to be freed after the death of his wife, after which the whole property was to go to Christchurch, St Edmund's, and Ely (in a few cases after the death of people granted temporary usufruct). Wulfgyth (no. 32) left her husband and sons the usufruct of the estate, and the mass manumission was only to be made after their deaths, at which point the land was to go to Christchurch; further lands granted to her children have no manumissions attached. Edwin (no. 33) again frees people only on lands granted to churches. Ketel (no. 34) frees all men and grants them their moveable property, while the land itself was to go to Christchurch; lands left to his kin have no manumissions attached. Siflæd (nos. 37–8) leaves everything to churches.

¹⁴¹ Leofgifu (Whitelock, *Anglo-Saxon Wills* no. 29): all men to be freed *on birde and on tune*, including those left to her kinsmen and her one daughter; she had no son. Thurketel Heyng (no. 25) again had no son, but only a daughter: he freed all his men on every estate, 'those who will work for it', so clearly this blanket statement must have gone with a lesser sort of freedom; unless 'working for it' involved their buying themselves back through their own resources, in which case this was not much of a manumission. See also Theodred (no. 1).

testators felt that greater guarantees were required in order to ensure the management of their memory when their property was being left to a nephew or other relative rather than to their own child.

Manumissions, even blanket ones, could serve very precise, and sometimes complex, strategies for memory management. Sometimes particular estates were earmarked for this very function: Thurketel of Palgrave freed all his dependants on lands he was leaving to St Edmund's and to the local bishop, but he also freed those living on half of a single estate at Roydon. This estate was to be divided between his wife (on whose share the freedmen were to be made), St Edmund's (which was to get 'the middle furlong'), and his nephew, together with another kinsman and two other men (who were to get twenty acres in common). Thurketel seems to have been using this one estate to combine several different interests, and to create property ties which would bring together a group of people who would remember him. Freedmen evidently played a part in this strategy.¹⁴² A different strategy operated in the will of Wulfwaru: she left one estate and some moveables to St Peter's in Bath, and the rest to her children, whom she asked to manumit twenty dependants of their choice, 'ten from the East and ten from the West' (presumably to spread out the load); these freedmen would then have to furnish a food-rent to St Peter's every year, 'as good as they can afford'. Although Wulfwaru was not specifying any particular estate, she still used freedmen to create a permanent link between the church, herself, and her own family.¹⁴³

Other wills could dictate who was to be manumitted on the basis of a much more personal selection, as in the case of Æthelgifu, who was very discriminating, and freed only a few dependants for each person or institution to whom she was leaving land. Here too, the freedmen were probably intended to embody her own memory in the households of the beneficiaries of her will (for those who continued to serve); but she was evidently concerned that those who were being made more independent by being granted their own land should also remember her ('Liofing of Henlow is to be freed and he is to have his land on condition that every year he remembers her and her lord').¹⁴⁴ In cases where the testator had children, this duty of memory may not have required a manumission; this seems to be the case with Wynflæd, who covered all bases by freeing all of her penal slaves and freeing other unfree dependants individually by name. She was also very precise in her disposal of those who were to remain unfree. In the case of an estate at Chinnock, she gave the land to a church, but said that those dependants who were unfree were to go to her granddaughter, except a few whom she gave to her (probable) grandson Eadwold; she substituted others for these, once again listed by name. Although this was not a manumission, her aim, as with the other testators, was probably to achieve the same intertwining of interests between different members of her family, a church, and her dependants that would contribute to keeping her memory alive.¹⁴⁵

¹⁴² Thurketel of Palgrave (Whitelock, *Anglo-Saxon Wills* no. 24).

¹⁴³ Wulfwaru (Whitelock, *Anglo-Saxon Wills* no. 21).

¹⁴⁴ Whitelock, *The Will of Æthelgifu*, p. 12.

¹⁴⁵ Whitelock, *Anglo-Saxon Wills* no. 3; Sawyer 1539.

The wills, then, show that testators could adopt very different techniques to achieve the perpetuation of their memory. Although this often involved freeing dependants, even the blanket, impersonal manumissions were generally far from being indiscriminate, since in most cases they involved particular estates deliberately chosen as vehicles for memorialization. The only type of unfree dependant to be consistently freed *en masse*, over the whole of a testator's property, were *witetheowas*, or penal slaves, but, as I argued in Chapter 2, these were very distinctive in both practical and symbolic terms.¹⁴⁶ On the whole, then, in Anglo-Saxon England as in Francia and Italy, manumissions are likely to have been abnormally preponderant in land grants made to religious institutions, since these probably combined a greater concern on the part of the testators with the preservation of their own memory together with a substantially lesser concern with maximizing the profits the beneficiaries could obtain from the estate workforce. At the broadest level of generalization, the range of behaviour documented in the wills suggests that the more tenuous the personal relationship was between testator and recipient, the more indiscriminate and the more massive the manumissions, with the smallest numbers being made on lands left to a direct male heir. None of this gives any reason to believe that heavily dependent freedmen would have been numerous enough to 'set in motion the process of enservment', as David Pelteret has suggested.¹⁴⁷

The good of the soul and a concern for memorialization were evidently also an important aspect of individual manumission documents, the other main type of evidence for manumission in Anglo-Saxon England.¹⁴⁸ The practice of recording documents in the margins of gospel books has been seen as particularly relevant, though not exclusive, to Celtic areas. By far the earliest surviving manumission document, dating from 840 and in Latin, is preserved in a Welsh manuscript now known as the Lichfield Gospels.¹⁴⁹ The earliest known English example is from 924 or 925, and records a manumission performed by Æthelstan 'immediately after he first became king', possibly as part of the ceremony of his coronation.¹⁵⁰

¹⁴⁶ Whitelock, *Anglo-Saxon Wills* nos. 4, 8, 9, 18, 20. See Chapter 2, n. 97.

¹⁴⁷ Pelteret, *Slavery in Early Mediaeval England*, p. 121. Pelteret overestimates the proportion of people actually being freed in wills; it is not in fact the case that 'all slaves were freed in virtually every eleventh-century East Anglian will that mentions them' (p. 129; original italics), and Table IV (pp. 129–30) is somewhat misleading in that it does not distinguish between cases where 'all' or 'half' of the unfree dependants were being freed on a single estate only, or on the whole of an individual's property.

¹⁴⁸ I am extremely grateful to Duncan Probert for sending me a copy of his in-progress edition of these texts, as well as several unpublished papers on the subject. On these documents, see Pelteret, *Slavery in Early Mediaeval England*, chapter 5, pp. 131–63, with a very useful handlist at pp. xiv–xvi.

¹⁴⁹ Bleiddudd redeems himself and his descendants for four pounds and eight ounces of silver: 'Chad 5' in Lichfield Cathedral, Dean and Chapter ms. 1, p. 218 (online image: <https://lichfield.as.uky.edu/content/luke-portrait-pg-218>), ed. Evans, *Book of Llan Dav*, p. xlv; English translations: Davies, *Wales in the Early Middle Ages*, p. 67; Charles-Edwards, *Wales and the Britons*, p. 247. Padel, *Slavery in Saxon Cornwall*, p. 23, explains the apparently very steep price paid (already noted by Pelteret, *Slavery in Early Mediaeval England*, pp. 139–40) with the suggestion that this may have been someone buying himself back from penal enslavement.

¹⁵⁰ British Library, Royal I B vii, fol. 15v; Ker, *Catalogue of Manuscripts*, pp. 316–17; Pelteret, *Slavery in Early Mediaeval England*, p. 161.

This is the only manumission in that manuscript, but later on, from the mid-tenth to the twelfth centuries, we start to find entire collections copied in the blank spaces of books. As a result, examples survive in quantities wholly without parallel on the Continent. Manumission records mostly survive from Cornwall and the South West of England: Bodmin,¹⁵¹ Exeter,¹⁵² Bath,¹⁵³ and Great Bedwyn,¹⁵⁴ taken together, account for 110 examples out of 117 (of the remaining seven, one is Æthelstan's manumission; the other six are all from Durham¹⁵⁵).

These texts are generally very succinct in their wording, and most of the time contain very little apart from the names of participants; but they still make it possible to see, underneath their apparent uniformity as a genre, that both the manumissions and the copying of the records themselves could fulfil a wide range of different aims for a variety of different parties. This becomes apparent when comparing the two biggest caches of manumission records, the Bodmin Gospels and the Exeter Book.

The entries in the Bodmin Gospels constitute by far the largest corpus, with fifty-one different records. They are also somewhat atypical, particularly in terms of their probable audience. The majority of the entries are in Latin; this could be explained by their Cornish setting, since Cornwall had only come under Anglo-Saxon rule in the ninth century and may have retained a stronger Latin charter-writing tradition; but there are other reasons to think that the local community or its activities were not necessarily the central purpose in the keeping of these records by the monastery. The only real common denominators for these texts were, on the one hand, the monastic and clerical community of St Petroc itself, the same members of which turn up again and again in the witness lists; and, on the other, royal and other important political figures, whose links with this community the records were designed to emphasize (or perhaps even to invent from scratch, if one were minded to be suspicious). Kings in particular are impressively well represented in nineteen separate entries, over a third of the total, in a nearly unbroken line ranging from Edmund to Æthelred. They feature either as the manumittors themselves, or in *pro anima* clauses, as sharing the spiritual benefit of the manumission.¹⁵⁶

¹⁵¹ *Bodmin*: British Library Add. 9381. Ker, *Catalogue of Manuscripts*, p. 159.

¹⁵² Exeter: *Leofric Missal*: Oxford, Bodleian Library, Bodley 579, fols. 1–1v, 8–8v, 377v (Ker, *Catalogue of Manuscripts*, pp. 378–9); *Exeter Book*: Exeter 3501 + Cambridge University Library MS. li.2.11. Two earlier manumissions from Exeter can be found in BL Cotton Tiberius B V, fol. 75–75v (one 955 × 959, the other 1000 × 1025; Ker, *Catalogue of Manuscripts*, pp. 256–7).

¹⁵³ Bath: fifteen texts in Corpus Christi College Cambridge MS. 140 + MS. 111: MS. 140, fol. 1–1v; MS. 111, p. 8. The palaeographical dating of these texts to the late eleventh to early twelfth centuries is confirmed by the presence in some entries of Abbot Ælfsige (c. 1075–1087) and John Bishop of Wells (1088–1122). Several manumissions seem to have been erased, both on fol. 1–1v (MS. 140) and on p. 8 (MS. 111): Ker, *Catalogue of Manuscripts*, pp. 47–8.

¹⁵⁴ Bedwyn: two manumissions in Bern Burgerbibliothek 971, fol. 76v, both dated palaeographically to 925 × 950 (Ker, *Catalogue of Manuscripts*, pp. 4–5).

¹⁵⁵ Durham: two from the *Liber Vitae*, BL Cotton Domitian vii (Ker, *Catalogue of Manuscripts*, pp. 186–7; Pelteret, 'The manumissions in the Durham *Liber Vitae*'); four from 1030 × 1040, in the now lost BL Cotton Otho B. ix, surviving in a transcription by Richard James: Oxford, Bodleian James 18, pp. 42, 43; see Ker, *Catalogue of Manuscripts*, p. 224.

¹⁵⁶ The exception is Edward the Martyr, who only ruled for three years. The earliest mentioned in the documents is Edmund (939 to 946), freeing slaves at the altar of St Petroc (*Bodmin* nos. 11–13;

Although these texts are generally thought to have been written over a period of about a century and a half (from the reign of Edmund, 939–946, to the late eleventh or early twelfth century, the palaeographical dating for the latest entries), there are reasons to doubt both the earliest and the latest dates proposed. All of the earliest manumissions, purporting to date from before the episcopacy of Wulfsig (bishop of Cornwall from 959 × 963 to 981 × 993) involve kings, and in particular Edmund, who is said to have personally manumitted people at the altar of St Petroc in three of the entries.¹⁵⁷ Two things make these early ‘royal’ records suspect. The first is the curious absence of any royal entourage in the witness lists;¹⁵⁸ instead, we find only three or four priests of St Petroc in attendance. This picture of English kings leaving all their magnates behind to make a quick weekend getaway to St Petroc to free some slaves seems unlikely in the extreme. Even if kings had used royal agents as intermediaries rather than coming in person, it would still remain surprising that these persons should be so wholly absent from the witness lists; one would rather have expected St Petroc scribes to take very good care to record the presence of such prestigious visitors, as they in fact did later, in the case of the manumission by Æthelred.¹⁵⁹

The second reason to doubt the authenticity of the earliest records is that some of the local clerics listed in them as witnesses would have had to be suspiciously long-lived. Edmund’s first manumission alone, if genuine, would require two of the witnesses, one Cantgethen and one Tithert, to have had active careers of a minimum of fifty-five and sixty-six years respectively.¹⁶⁰ Of course, the presence

I follow here the numbers given in Förster’s edition); followed by Eadred (946–55): nos. 26, 36 (in both cases *pro anima*, rather than supposedly performed by the king); followed by Eadwig (955–9): no. 29 (again *pro anima*). Edgar (959 to 975) is next, and is shown actively taking part in nos. 25 and 50; he is also mentioned in nos. 7, 14, 32, 34, 39, 40, 42, 46, 47, 49 (all *pro anima*). This is followed by one manumission by Æthelred (978–1016): no. 18.

¹⁵⁷ *Bodmin* nos. 11–13. Nos. 12–13 are said to have taken place on the same day.

¹⁵⁸ Contrast Æthelstan’s manumission in British Library, Royal I B vii, fol. 15v (= Pelteret, *Slavery in Early Mediaeval England*, Manumission 1.1); or the manumission made by Eadwig in Exeter (BL Cotton Tiberius B V, fol. 75 = Pelteret Manumission 4.1); or Æthelred’s later manumission in *Bodmin* no. 18, at which the *dux* Æthelweard was present (on whom see below, n. 160).

¹⁵⁹ *Bodmin* no. 18. Curiously, this has not led historians to question the authenticity of these records, perhaps because doing so would mean denying the Bodmin gospels their current status as the repository for the earliest surviving examples of Caroline minuscule in the British Isles. For a new reassessment of the Bodmin Gospels from a palaeographical point of view, see Curran, ‘Changing the Tradition’, Chapter 4. Oliver Padel has offered the explanation that these manumissions had been done on royal orders, but that kings may not have been physically present for them (Padel, *Slavery in Saxon Cornwall*, p. 20).

¹⁶⁰ The priest Tithert is listed as a witness in both *Bodmin* no. 11, a manumission attributed to Edmund (939–946), and in no. 22, which can be dated to 1011 × 1020, since it was witnessed by Bishop Buruhwold of Cornwall (c. 1011–1019 × 1027) and also involved *dux* Æthelweard. (Buruhwold is not attested as bishop of Cornwall before 1012, and it is unknown how long he may have been bishop before then due to a gap in the chronology of the bishops of Cornwall between 1002 (the death of Bishop Ealred) and 1012; Simon Keynes has filled this gap with a certain Æthelsige, who attested a diploma in 1009 (Sawyer 922) as the bishop of an unspecified see, for which Keynes argues convincingly that Cornwall is the only viable identification: *The Diplomas of King Æthelred the Unready*, p. 264, n. 64. If this is correct, the Ealdorman Æthelweard in the Bodmin gospels cannot be identified with the better-known Ealdorman Æthelweard, the chronicler, who was dead by 1005; Keynes, *The Diplomas of King Æthelred the Unready*, p. 192, n. 139. He may, on the other hand, have

of identical names in witness lists could be down to a lack of variety in the names current in the area; but then one would expect this lack of variety to apply also to the names of manumittors, manumitted, and lay witnesses, which tend to be far more diverse.

The manuscript, then, is unlikely to represent a transparent record of manumissions as they happened, at least in these early examples. (In one case at least, it is clear that the addition of a *pro anima* clause with Edgar's name was an afterthought, since the same short entry was written by two separate scribes, one of whom recorded the names of the manumittor and manumitted, and the other supplied the *pro anima* clause in favour of Edgar as well as the list of witnesses.¹⁶¹) It is not particularly difficult to think of reasons why the clerics of St Petroc might have wanted to use manumissions as part of an effort to claim a much older link of patronage with the line of the kings of Wessex than they could otherwise have supported. Disposing of people rather than land may have been more powerful symbolically, since it combined an act of piety with an action typically associated with important ceremonies (such as Æthelstan's coronation). Moreover, embellishing a manumission had this advantage over embellishing a grant of land that it left existing property rights undisturbed: they did not claim anything for the church which it did not already have, nor did they require consigning the name of a genuine land donor to oblivion by replacing it with a king's; and the manumitted

been the Ealdorman Æthelweard who was exiled by Cnut in 1020: *Anglo-Saxon Chronicle*, C, D, E, s.a. 1020. An Æthelweard is also found witnessing Cnut's grant to Buruhwold in 1018 (Sawyer 951); this diploma is now thought to be spurious, but Keynes has argued the witness list comes from a genuine charter: Keynes, 'Cnut's earls', p. 68, n. 148.) That 'Tithert' in no. 11 and in no. 22 refers to one and the same person is made overwhelmingly likely not only by the extreme rarity of this Anglo-Saxon name (Padel, *Slavery in Saxon Cornwall*, p. 17), but, more decisively, by the fact that in both records he is found witnessing with people he also witnessed with in other documents with different dates: in no. 11, Cantgethen (with whom he also witnesses in no. 38, dated palaeographically by Förster to c.1000, making him our second supposed octogenarian); in no. 22, Byrhsie (with whom he also witnesses in no. 34) and Boia (no. 21, dated palaeographically to 1000 × 1025). The other supposedly 'early' documents in which Tithert appears are two manumissions made for the soul of, rather than by, a king (no. 34, for Edgar, and no. 36, for Eadred), which makes it impossible to know whether the king in question was alive or dead. Apart from that, Tithert overwhelmingly appears in records at the later end of the chronological spectrum, nearer the date of no. 22 (nos. 9 and 38, dated palaeographically to c.1000; nos. 19 and 21, 1000 × 1025). If we accept *pro anima* clauses as taking place during the lifetime of the king involved, as does most of the historiography, we run into further octogenarians: e.g. Agustinus lector, who appears in no. 42 and perhaps no. 14, if we identify him under the name 'Austius lector'; both are for the soul of King Edgar, but Augustinus also appears in no. 8, dated palaeographically to c.1000, which again suggests an abnormally long minimum active lifespan of fifty-five years. Byrhsie *presbiter*, in nos. 14 and 34, witnesses two manumissions made for the soul of King Edgar, which, put together with no. 22, would require a minimum of thirty-seven active years—again not beyond the realms of possibility, but all this would make the St Petroc clerics a remarkably long-lived bunch of people.

¹⁶¹ *Bodmin* no. 14: the first scribe wrote the section which says 'These are the names of the people whom the clerics of Petroc freed: Sulleisoc, Ourduythal'; another scribe wrote the next section ('for the soul of King Edgar on the altar of Saint Petroc on the feast of Saint Michael before these witnesses: Byrhsie the priest, Osian the priest, Austius the lector, Riol the deacon'). Förster notes that both hands are also very similar to those in Edmund's manumissions (nos. 11 and 12), and use a similar brown ink, which could conceivably make them contemporaneous, further undermining the authenticity of the Edmund manumissions (Förster, 'Freilassungsurkunden', p. 86).

person remained freed in any case, which made these records very unlikely to lead to a dispute or to jeopardize links with existing patrons. The clerics of St Petroc may have retrospectively attributed their own manumissions of some of their dependants to kings, much as they also frequently included a king who had had nothing to do with a manumission as its spiritual beneficiary.¹⁶²

Whether kings ever showed any interest in St Petroc in return is more doubtful for those earliest years, though a relocation from Padstow to Bodmin was secured some time in the second half of the tenth century (perhaps in 981, though it is impossible to be sure), and the monastery went on to flourish at a time when many Cornish houses did not experience the same fortune.¹⁶³ The much greater plausibility of the record involving Æthelred (who, although he was probably not there himself either, was, according to the text, represented by *dux* Æthelweard) suggests that St Petroc managed to build for itself some sort of connection with English kings later down the line.¹⁶⁴ The mass of documents involving Edgar and Edgar's soul, as well as the fact that the earliest securely datable document involves *dux* Ordgar as the manumitter and therefore dates from 964 × 971,¹⁶⁵ could point to the reign of Edgar as the moment when the monastery's ambitions started to become reality.¹⁶⁶

The series should therefore probably be given a shorter time range, from the mid-tenth century to 1020, with a shortest possible time span between 971 and 1011.¹⁶⁷

¹⁶² Wulfsgie is described as a priest, not a bishop, in *Bodmin* nos. 12, 25, 36, which could suggest these were written before 963; but the information would have been easy enough to supply (and may have been supplied in error in the case of no. 25, which calls him a *presbiter* under Edgar—though since he could have become bishop any time between 959 and 963 the record could still be genuine if it fell within that window).

¹⁶³ Padel, *Slavery in Saxon Cornwall*, pp. 6–7. See also Jankulak, *The Medieval Cult of St Petroc*, pp. 41–72.

¹⁶⁴ *Bodmin* no. 18.

¹⁶⁵ *Bodmin* no. 17. On Ordgar: Finberg, 'The House of Ordgar', pp. 190–1. His son Ordulf appears in no. 9 (Jenner, 'The Bodmin Gospels', pp. 250–1; Finberg, 'The House of Ordgar', p. 193).

¹⁶⁶ See Padel, *Slavery in Saxon Cornwall*, pp. 20–1 on Edgar and Cornwall.

¹⁶⁷ The later entries are of less concern here, but some of them are also problematic, as witnesses and their life expectancy create further headaches at the latest end of the chronological spectrum, with the five documents datable palaeographically to the second half of the eleventh century: *Bodmin* nos. 1, 30, 31, 33 (Ker, *Catalogue of Manuscripts*, p. 159, dismisses Förster's dating of the script of nos. 30 and 33 as 'palaeographically unacceptable'), and no. 37 (dated by Ker to c.1100). Of these, no. 1 clearly has to be a later copy of an earlier document, since it is witnessed by one Morhaitho, who witnesses thirteen times altogether in the Bodmin manumissions (nos. 1, 4, 7, 8, 9, 10, 15, 16, 17, 21, 24, 27): his earliest attestation happens to be in the one record securely datable to before 971 (no. 17), which, if no. 1 were to be dated close to the time it was copied, would give him an astonishing active career of over one hundred years as a witness (his longevity is commented on by Padel, *Slavery in Saxon Cornwall*, p. 17, n. 72, but without drawing conclusions as to the likely gap between the event and the copying of the text into the manuscript). This is highly unlikely to be a different Morhaitho, since no. 1 is also attested by a certain Budda, who also witnessed no. 21 (dated palaeographically to 1000 × 1025) together with Morhaitho. This entry at least, then, is likely to have been copied long after the actual event it purported to record, though why it should have been copied into the book then is rather mysterious. Perhaps, given the apparent gap between these and the earlier entries, the monastery was trying to revive the tradition of entering manumissions into their book. At least one of the documents dated palaeographically to c.1075 shares no witnesses with earlier records, and so could well be recording an event of the later eleventh century (no. 37); others look a bit more suspicious. Nos. 30, 31, and 33 were clearly made close to each other, since they name several people in common: Maccos the hundredman (nos. 30 and 31), the mass-priests Isaac and Wunning (nos. 30 and 33) and Boia (no. 31 and 33). Boia is the only one to feature in other documents, mostly dated around the year 1000 or early eleventh century: nos. 21

If so, these entries should be read as the product of the work of a couple of generations, during which St Petroc busily went about building up and consolidating its network, if not with kings themselves, then at least with high-status intermediaries (with Ordgar at one end and Æthelweard at the other). On the whole, these records give the impression of being the product of a tight-knit monastic community, whose members witnessed texts together on a regular basis,¹⁶⁸ and who selected, preserved, and tinkered with their texts with the primary aim of projecting an image of the centrality of their community beyond a local level—as opposed to aiming primarily to document the business and answer the needs of the immediate lay community surrounding it. The Bodmin records, then, end up looking more like a record of people whom monks either had a relationship with already or with whom they wished to establish a relationship. The logic behind these records has less to do with manumissions or with local society than with a form of high-level networking.

The use of Latin in the vast majority of the entries could be taken as an additional sign that the primary intention of the clergy of St Petroc was not to use the book as a resource for the local lay community. The examples in Old English include two rather atypical documents recording a purchase followed by a manumission (a process much more frequently recorded in the manumissions recorded in the Exeter Book, and others written in Old English more generally), and a man buying himself out of penal enslavement.¹⁶⁹ Both of these, together with a third one, were copied into the book at a much later date, so perhaps the Old English records operated with a different dynamic from the Latin ones, and reflected a wider set of concerns.¹⁷⁰ The Latin records are much sparser in detail, and this may explain the absolute passivity of nearly all the manumitted,¹⁷¹ and the very narrow range of relationships and motivations recorded (limited pretty much exclusively to ‘the good of the soul’). The details of the arrangements, in the Bodmin records, were simply not the point.

This is in stark contrast with the manumissions in the Exeter Book, the next largest surviving cache of such records.¹⁷² The twenty-four manumissions in the

(1000 × 1025), 22 (978 × 1016), 35 (undateable but titling him a *discipulus*, so presumably before his appearances in nos. 21 and 22 as a *diaconus*). An exceptionally long-lived individual might have lasted out until 1075 (and in no. 31 Boia is described as *decanus*, so clearly by then he was a senior figure), but this really implies too many exceptionally long-lived people to be plausible.

¹⁶⁸ Only eight documents do not share any witnesses with others (*Bodmin* nos. 2, 23, 26, 29, 37, 45, 48, and 49), but that is because none of them has a witness list, apart from no. 37 (copied c.1075). All the others can be placed palaeographically some time in the second half of the tenth century: no. 2 (950 × 1000), 23 (c.1000), 26 (for the soul of King Eadred), 29 (for the soul of Eadwig), 45 (950 × 1000), 48 (palaeographically close to nos. 46, 47, and 49, so also from the second half of the tenth century: Förster, ‘Freilassungsurkunden’, p. 98), and 49 (for the soul of Edgar).

¹⁶⁹ See Chapter 2, p. 69.

¹⁷⁰ There are ten documents in Old English: *Bodmin* nos. 10, 26, 29, 30, 33, 37, 46–9; of these, nos. 30, 33, and 37 are among the later ones, from the second half of the eleventh century.

¹⁷¹ *Bodmin* nos. 33 and 50 are the only exceptions, but in both cases we are not dealing with a typical manumission: the one is a case of redemption from penal enslavement, the other of answering a wrongful claim of unfreedom.

¹⁷² The sixteen texts in the *Leofric Missal* (between 1030 and 1100), also from Exeter, should be considered in tandem with those in the *Exeter Book*: some texts are contemporaneous, and a few individuals feature in both series.

Exeter Book (ranging from c.1072 to 1143, so much later in date than Bodmin, but practically all still written in Old English¹⁷³) show a much closer engagement with local networks outside the cathedral chapter: they reflect the needs of a wider, though still tight-knit, local community, with lay witnesses appearing in several documents with as much regularity as clerical ones.¹⁷⁴ That the book served the needs of the local lay community is also clear from the inclusion within it of several lists of names detailing the membership of local guilds. Not coincidentally, the Exeter manumissions also provide evidence for a much more diverse set of agendas than the Bodmin records.

The ceremonial, commemorative, and salvific functions of manumission certainly still feature prominently in the Exeter records. Two of the manumissions, for instance, seem to have been made on the occasion of the translation of the bodies of Leofric and Osbern to the New Minster building in Exeter in 1133.¹⁷⁵ Another entry, c.1125–1129, records that a certain Walter son of Wulfweard freed a woman, Æthelgifu, ‘in front of his father’s dead body, to free his father’s soul and his own’ (*ouer his fæderlic, his fæder saule to alisednisse 7 his*).¹⁷⁶ Commemoration and salvation, however, were far from being the only sort of context or motivation given.

The local outlook of the records sometimes makes it possible to see the same manumitters, freed people, and witnesses participating in different acts of manumission, and displaying diverse aims and agencies. One record, perhaps c.1090, tells how a certain Leofwine, son of Feala, redeemed (*bohte*) himself and his offspring for half a pound from Wulfweard of Jameskirk (the same man before whose dead body Æthelgifu would be later manumitted); the record stated that he and his children would have the right to choose their lord and go where they liked (*To ceosende hi’ hlaford 7 his ofspring swa hwær swa hig woldon*).¹⁷⁷ A couple of decades down the line, Leofwine’s brother, Geoffrey son of Feala, redeemed a woman named Edith ‘out of Wonford’ for ten shillings, from Alfstan of Wonford; Alfstan was a neighbour of Wulfweard, and had witnessed Leofwine’s manumission.¹⁷⁸ Godwine and Goda, Leofwine’s sons and Geoffrey’s nephews, who had been freed along with their father, were also in attendance to witness Edith’s manumission. This little network of people, then, yields one ceremonial, commemorative manumission

¹⁷³ There are only two exceptions, in Latin, both late in date: *Exeter Book* nos. 4 and 14 (= Pelteret, *Slavery in Early Mediaeval England*, Manumission 9.1 and 9.10), from 1143 and 1133 respectively; see Rose-Troup, ‘Exeter manumissions’, pp. 426–7 and 431–2. I use the numbers given by Förster (*Exeter Book*) for ease of reference, even though this numbering does not reflect the original order of folios. For a helpful outline and concordance, see Probert, ‘Unravelling Exeter’s post-Conquest manumission and gildscip records’.

¹⁷⁴ For example, Oter son of Dirling witnessed *Exeter Book* no. 27 (= Pelteret, *Slavery in Early Mediaeval England*, Manumission 9.22); with his son, manumitted a man named Aluric the Red (no. 7, = Pelteret, Manumission 9.3); and also witnessed another manumission in the *Leofric Missal*, no. 6 (= Pelteret, Manumission 5.16).

¹⁷⁵ *Exeter Book* no. 17: Bishop Warelwast’s manumission of Wulfric Pig (or Wig; see Rose-Troup, ‘Exeter manumissions’, p. 433), = Pelteret, *Slavery in Early Mediaeval England*, Manumission 9.12. No. 14, William de Buz freeing Edwin Spileman, = Pelteret, Manumission 9.10.

¹⁷⁶ *Exeter Book* no. 10, = Pelteret, *Slavery in Early Mediaeval England*, Manumission 9.6.

¹⁷⁷ *Exeter Book* no. 27 (= Pelteret, *Slavery in Early Mediaeval England*, Manumission 9.22); for the dating, Rose-Troup, ‘Exeter manumissions’, p. 437, and pp. 421–2 on Wulward.

¹⁷⁸ *Exeter Book* no. 11; = Pelteret, *Slavery in Early Mediaeval England*, Manumission 9.7.

initiated by the manumittor (with the freeing of Æthelgifu); one manumission in which the freedman redeemed himself from service (Leofwine); and one manumission in which the manumitted person was bought and freed by a third party (Edith).

This is very different from the Bodmin evidence, and this shows particularly clearly how far the primary purpose of record-keeping could affect the depiction of the social world offered in manumission texts. There were many reasons to keep a record, which can each give us a substantially different impression of what manumission entailed. The Bodmin records, which were mostly copied in order to signal the ritual centrality of the institution which had produced them, may well have streamlined a variety of circumstances and situations into a single, religiously motivated mould. The Exeter Book, by contrast, shows much more interest in the local lay community surrounding the cathedral chapter. Although the frequency of namesakes make it hard to be sure, there is a very significant crossover between people recorded in the manumissions and those listed in the guild registers in the same manuscript. These local groups of people made a contribution to Exeter cathedral in order to gain a presence in its liturgy on particular feast days; recording their manumissions may have been part of the service the cathedral provided. For the cathedral chapter, the entries may also conceivably have created a record of freedmen from whom a token revenue was exacted in exchange for protection from being reclaimed into unfreedom, though this can never be more than a guess. The need on the part of the freedmen, at least, seems evident from the two documents relating to Edith wife of Liviger the baker, relating to whom we find both a manumission and a subsequent dispute in the Exeter Book.¹⁷⁹

The Exeter manumissions allow us a glimpse into a much more diverse social world, in which people could take their status into their own hands by buying their own freedom; they give us a greater sense of the diversity in agency, purpose, and occasion which could lead to a manumission. This chimes in with roughly contemporary evidence from Bath (also from the late eleventh to early twelfth centuries), in which only three records out of fifteen give the impression that the manumission had been done on the initiative of manumittor; the other twelve deal instead with people redeemed by themselves or by members of their own family, or by third parties, whose relationship to the persons freed is unfortunately hard to gauge.¹⁸⁰

Pelteret explains this sharp rise in agency displayed by the manumitted in the records from Exeter and Bath by reading a large number of them as dealing not

¹⁷⁹ *Exeter Book* nos. 12 and 25. This is not the same Edith as the one freed by Leofwine's brother Geoffrey (no. 11). Rose-Troup, 'Exeter manumissions', p. 430, n. 2, cites the opinion that no. 25 had been made up to support Edith in the dispute, but it is not clear why the Exeter scribes would automatically have sided with her.

¹⁸⁰ On the initiative of the manumittor: Pelteret, *Slavery in Early Mediaeval England*, Manumission 8.3 and 8.7 (even then, in these two cases the manumittor is unnamed, so for all we know these texts could well have also involved third parties or self-redemption), and 8.15, in which Abbot Ælfsige freed one of his own dependants. Redemption by oneself or a family member: 8.1 (self), 8.2 (a father redeems his daughter and her children), 8.6 (a father redeems his two sons), 8.11 (self and children), 8.12 and 8.13 (in both cases a father redeeming his son). By third parties: 8.4; 8.5 (for the manumittor's mother's soul); 8.8; 8.9; 8.10; 8.14.

with unfree people whose legal status was being changed, but with 'serfs' seeking the right to leave the particular estate to which they were bound. But there is no real evidence that this distinction is one that contemporaries would have understood, nor that anyone until the professional jurists of the thirteenth century saw an obvious dividing line between being attached to the land and being attached to a lord. The logic behind Pelteret's application of this distinction, furthermore, is not entirely clear.¹⁸¹ Mostly, though not exclusively, the distinction is based on very small formulaic variations, which essentially boil down to a distinction between, on the one hand, *geboht* ('bought') or *gefreod* ('freed'), which he regards as applying to slaves, and, on the other, *geboht ut* ('bought out'), which he takes to mean freeing 'out' of an estate rather than out of a personal bond of dependence, and which he therefore sees as applying only to 'serfs'.¹⁸² As a basis for such a strong conceptual distinction, this seems too tenuous, and it is hard to see any other common denominator that would support the distinction, whether in terms of other formulaic features present in the records or in practical terms (for instance, there is no correlation between Pelteret's categories and the value of the redemption price or the level of family support available to the manumitted).¹⁸³ In practice, Pelteret's

¹⁸¹ Padel, *Slavery in Saxon Cornwall*, p. 3, voices doubts as to the application of this distinction.

¹⁸² This applies above all in Pelteret's treatment of the Bath documents. Pelteret reads six of the Bath records as quittances, and as involving serfs rather than slaves (Pelteret, *Slavery in Early Mediaeval England*, Manumission 8.1, 8.4, 8.6, 8.10, 8.11, and 8.13; discussed at p. 159). His distinction between *geboht ut* or *gedon ut* (implying 'out' of an estate) rather than *geboht* or *gefreod* ('bought' or 'freed') as relating to two completely different forms of legal tie comes out of the two manumissions from Great Bedwyn (c.925 × 950), both of which used *gedon ut*, and both of which Pelteret sees as quittances involving serfs; but this reading is only based on the assumption that only serfs could be said to live on *geburland* (pp. 157–8). Worryingly, the distinction between *geboht* and *geboht ut* is not usually sustained by further differences in the rest of the formula: in the Bath records, for instance, the phrase *to ecum freode*, 'to eternal freedom', which one would think might constitute a rather more telling indicator, features both in documents Pelteret reads as manumissions (8.3, which he regards as a straightforward manumission because of the use of *gefreod* and the reference to the good of the soul), and documents he reads as quittances (8.13); he expresses uncertainty about 8.2 and 8.4 (pp. 158–9), but does not discuss 8.12 and 8.14, where the phrase also features. Where only *geboht* is used in a record, Pelteret regards it as a simple purchase with no manumission intended (8.5, 8.8, 8.9, 8.10; p. 158); of these, though, one adds that the buyer was making the purchase 'for his mother's soul' (*for his moder sawle*, 8.5), which makes it unlikely we are really dealing with the simple acquisition of a slave, and another stipulates that the woman being bought would be free after the couple's death (8.8). It may be, then, that these were simply more abbreviated records of manumissions, but manumissions nonetheless. Other distinctions used for other collections are equally doubtful, for instance with *faer-frige* as applying essentially to serfs; *fryjo 7 faere wyrthe* to slaves; *freoh and sacles* mostly but not exclusively to serfs (pp. 157–60): these could be equivalents, at most with slightly different emphases, rather than reflecting very distinct case scenarios.

¹⁸³ On the lack of correlation with other sets of formulae in these documents, above, n. 182. Efforts to correlate this formulaic expression with the wider social setting presented in the records lead to some confusion: Pelteret, *Slavery in Early Mediaeval England*, Manumission 8.10 is thus read successively as a purchase and on the next page as a quittance (at p. 158 it 'simply record[s] the buying of slaves', but on p. 159 'serfs working their own lands which gave them the resources to pay these sums'). Similarly, 8.4 is described successively as a likely manumission and as a likely quittance (both at p. 159). The distinction is also not borne out in any consistent way by the terms of the transaction. On redemption prices, Pelteret speculates that the 'reduction in the cost of release from the tenth to the twelfth centuries' was probably caused by 'the changing nature of social relationships over this period', that is, most of the people seeking release would have been serfs wanting release from an estate rather than slaves purchasing their freedom (pp. 154–5); but when discussing the Bath manumissions

unstated rule of thumb seems to be that cases in which the transaction is said to happen in a church or 'for the good of the soul' should count as 'real' manumissions involving 'real' slaves,¹⁸⁴ whereas cases in which people are redeeming themselves should count as quittances involving serfs.¹⁸⁵ This, however, results in a circular approach. Rather than relating to legally distinct types of dependant, these manumission records point instead to the variety of goals and types of agency which could be relevant to the outwardly single category of manumission, depending on whether the initiative chiefly lay with the manumittor or with the manumitted, or whether the dependant was expected to stay in service under different terms or instead to leave and settle somewhere else (in the case of women, perhaps in order to marry).

Although Anglo-Saxon England presents a different source base from the rest of Europe, this material still points to some important similarities with what has already been observed for Continental regions: the likely difference in both numbers and level of subjection of freedmen living on church lands as opposed to lands which remained in lay hands; the use of freedmen to create connections between many different parties, and in particular their capacity to act as living embodiments of the memory of their manumittor; great variety in the nature of freedmen's relationship to their manumittor, the extent of their remaining obligations, and the security of their socio-economic position; and, last but not least, the generally underwhelming evidence for very large numbers of people being freed on lay estates. All this makes freedmen's contribution to the formation of 'serfdom' seem ever more doubtful.

CONCLUSION

Early medieval people used manumissions to do a lot of things, nearly all of which were significantly different from what manumission had been used for under Rome. Not all of them, however, led to the ever-increasing subjection of freedmen as a group. There were as many reasons for making manumissions as there were for owning unfree people in the first place, and as many different outcomes; it is impossible to tell in any kind of statistical sense which tendency prevailed overall.

On the whole, it is surprising how little the symbolic element of gift-giving has featured in existing discussions of early medieval manumissions. I have argued that it was a central aspect of manumission in all its forms during this period: it gave

he thinks that a higher redemption price makes it more likely that the people being freed were not slaves, but serfs (p. 159). Regarding available family support, Pelteret sometimes considers documents in which a father freed his children as 'real' manumissions (8.2, a father redeeming his daughter with her children), and some as more likely to be quittances (8.13, a father redeeming his son) (pp. 158–9).

¹⁸⁴ The frequent mention of 'the soul' in the Bodmin entries is why Pelteret sees all of them as manumissions of slaves (*Slavery in Early Mediaeval England*, p. 157), but this could equally well be because scribes were not interested in including any further practical details, because their priority was not to document the rights of the manumitted (see above, p. 122).

¹⁸⁵ E.g. Pelteret, *Slavery in Early Mediaeval England*, p. 160.

the process its meaning, and it was the logic of the gift that allowed patrons to use their freedmen to achieve things which they could not, or could only do less well, through their unfree dependants. What made all forms of manumission so symbolically fruitful was that they constituted an act of piety and generosity which, at the same time and by its very nature, created the means of its own commemoration and recognition. Whatever it was that had to be remembered (a sea change in a personal relationship; the death of the manumittor; or a coronation or the opening of a new church building), creating a freedman ensured that the date chosen would remain the most important in at least one person's life.

This symbolic power took different forms depending on what was meant to be achieved through the manumission. The chief innovation characteristic of the Western early middle ages was that manumittors could use it to create and modify their relationships not only with their newly freed dependants, but also, *through* them, with other people or religious institutions. The permanent debt established by a gift of freedom meant that manumission did not simply involve losing dependants; in several important ways, it meant getting to keep them forever, even when they were being transferred to another lord. All freedmen therefore carried an accentuated capacity, in comparison with other types of dependant, to connect people, property, and institutions.

At one end of the spectrum, we find those select freedmen who were given the greatest amount of legal and economic independence. The point of such manumissions was not to cancel, but to translate what had been a legal relationship into one that was personal, and based on gratitude and loyalty. There seems to have been no distinction between these freedmen and people who had been born free. At most we can detect a degree of social prejudice, but this is only evident in politically highly charged cases, as with Leudast or Ebbo. These were the freedmen who had the most to offer, and granting them freedom provided their ex-owners with a way to exploit their skills in a more flexible way, for instance, by lending their services to powerful figures. Precisely because they were not legally or materially distinct from free people, they are also, for the same reason, the least visible as freedmen in the surviving source material.

At the other extreme end of the spectrum, we find situations in which the gift that was being made was not essentially aimed at the freedman, but at a religious institution. These manumissions tended to be much more impersonal, and were made in the context of land alienated to churches, with the specific aim of furthering the memory of the manumittor by creating a nexus between the land, the institution, the freedmen, and sometimes also the manumittor's family. The link between the land and its original grantor was embodied in the freedmen, and it was made ritually and permanently visible through the annual payment of dues on major feast days. Since the perpetuation of memory was achieved through the creation of this nexus of interests out of a variety of different and hitherto unrelated parties, manumittors were also much more likely in these cases to insist on hereditary obligations, and the permanence of the arrangement through the generations. The point of this type of manumission, then, was precisely to avoid giving freedmen much scope for independence. This end of the spectrum accounts for the

majority of references to freedmen in surviving sources, such as estate surveys, since it meant that their obligations still fell under the category of property rights. This dominance in the source material, however, is probably misleading, because this most heavily subjected type of freedman is likely to have been located disproportionately on lands that had been granted to religious institutions, as opposed to those which remained in lay hands. This end of the scale, involving gifts and bequests to churches rather than to relatives, also accounts for virtually all so-called 'mass' manumissions—though even in this context plenty of manumittors freed only a small number of their servants.

Distributed all along the spectrum in-between these two extremes were freedmen who were being freed individually, but who were too socially or economically weak to make full independence a viable prospect, particularly after the death of the patron. These cases account for most freedmen who were being entrusted to a religious institution; how much they would have to offer as a trade-off for this protection largely depended on their existing level of agency, and also on who owned the land they lived on. Freedmen who were also the tenants of a church clearly lived under a much more restricted form of freedom than those who merely had to pay a symbolic fee in recognition of the protection it offered them. Unfortunately, charter material tends to be fairly cagey about this dimension of manumission, particularly at the central medieval end of the period, when churches mostly recorded only the part of the deal that involved them.

'Freedmen', then, did not correspond to a distinct status or legal class, but to a wide range of situations and relationships, which varied according to the priorities of manumittors, of third-party protectors, and also, to a point, of the freedmen themselves. This variety, however, also operated within a common set of constraints, which made manumission in the early middle ages a substantially different phenomenon from manumission in the periods both before (Rome) and after (the later middle ages). These constraints applied more or less to every region considered in this chapter, and were determined by two essential characteristics of the type of free society that these freedmen were joining.

The first is the very low level of guarantee offered by the state in protecting either persons or their status (see Chapter 6). This is what frequently necessitated the appointment of a person or institution that could both guarantee freedmen's security and account for them if they wronged somebody else: this was the only way to integrate freedmen into the networks of protection and policing which no one could live successfully without. Churches could certainly be imperfect and sometimes abusive protectors, and might ask for a great deal in return for fulfilling this function; but they would in many cases probably still have been seen as a better bet than heirs, who might try to reverse manumissions altogether. The greater obligations involved in some early medieval manumissions, then, were partly an inventive response to the lack of state enforcement for the freedom of the manumitted.

The second common constraint was the absence of any routine use of labour or wage contracts, coupled with a much less developed commercial economy, both of which probably made it difficult for freedmen either to accumulate enough money to redeem themselves, or to achieve economic independence once they had been

freed—particularly if the manumittor's concern for them did not extend to granting them their own land. For a great many freedmen, freedom therefore still came with a tenancy agreement. Although unfree people were always in principle able to pay their way to freedom, this is likely to have been a much less attractive option in a context where no obvious means to make a living presented themselves to them outside the orbit of influence of their patron. During the early middle ages, Italy seems to have had the greatest scope for 'full' manumission: as Chris Wickham has argued, this is probably because it had a greater range of contractual labour arrangements than anywhere else in Western Europe.¹⁸⁶ Reduced possibilities on that front in other regions could explain why, in the early middle ages, self-redemption was much less frequent, and manumission less automatically transformative of the relationship with a patron, than they would become in the later middle ages.

Both elements, the relative lack of involvement of the state in matters of personal status and the relatively low level of commercialization of the economy, also distinguish early medieval Western Europe from the Byzantine Empire in the same period. This accounts for some of the differences in practices of manumission in East and West. In Byzantium as in the West, we find the odd example of 'mass' manumissions in wills, but, unlike in the West, none of them specifies a legal protector nor any remaining or hereditary duties. The state clearly functioned as an efficient enough guarantor not to have to specify a protector; and perhaps it was expected that the freedmen could easily enter into different labour contracts with different landlords should they need to do so. In the 1090s, the Pakourianoï, a childless couple, specified some material support for their freedmen, but perhaps more as an initial provision to get them started, without giving them anything as permanent as a land grant: the men, as well as having six pounds of gold distributed among them (which could have been a lot, or not much, depending on how many of them there were), were to keep their clothes, bedding, *peculium*, and their arms and horses—which suggests they had served Symbatios Pakourianos in a military capacity, and could presumably find employment elsewhere without too much difficulty. His wife Maria, in her own will, left only moveable items to her own freedmen and freedwomen, and granted them wheat and wine from her estates for one year after her death; after that, her expectation was clearly that they could look after themselves.¹⁸⁷ Eustathios Boïlas, in his own will (dated April 1059), took care to specify that his daughters, as his heirs, could continue to employ his freedmen against payment of a salary.¹⁸⁸ The greater diversity in different forms of

¹⁸⁶ Wickham, *Framing the Early Middle Ages*, p. 565, on the relative prevalence of contractual leases in Italy giving freedmen more options there compared to North of the Alps. For possible examples of full manumission followed by a lease in the Lucchese (in the testament of Bishop Peredeus of Lucca, above, n. 22), see Panero, *Servi, schiavi e villani*, p. 208.

¹⁸⁷ *Actes d'Iviron II*, no. 44 (23 January 1090) and no. 47 (4 November 1098); Rotman, *Les esclaves et l'esclavage*, pp. 177–80.

¹⁸⁸ Boïlas lists his freedmen, and the list does not come to very many; he also includes provisions for conditions to be fulfilled before the manumission would be effective, but no permanent duties are listed apart from the duty to remain in the orthodox faith; Testament of Eustathios Boïlas, ed. Lemerle, *Cinq études sur le XI^e siècle byzantin*, pp. 15–63, with the text at pp. 20–9 (the relevant section is at pp. 26–7, with a summary at p. 33). Rotman, *Les esclaves et l'esclavage*, p. 177.

labour contracts available in Byzantium, then, probably contributed to making it less crucial to specify continued service for freedmen; and the continued relevance of the state did not create the need to specify a patron who would be responsible for them.

Things changed in the West from the twelfth century onwards: by this point, the scope for making independent labour contracts was much greater, and profound changes were simultaneously occurring in the use of law. From then on, the more subjected type of freedman included in land grants more or less falls off the spectrum, as do those manumitted with significant duties owed to an ecclesiastical patron. This change goes for both serfs and (in Southern Europe) for slaves, by then distinct from each other in law as well as in practice. For serfs, what was being gained through manumission from the thirteenth century onwards was freedom from *all* of the very specific disabilities and dues involved in unfree status.¹⁸⁹ Unlike in the early middle ages, 'mass' manumissions of serfs or franchises tend to represent above all the agency of the manumitted, who seem to have banded together to negotiate terms with a lord. There is no sign that any persons freed in the thirteenth century had a residually inferior legal status or lived under continued restrictions: cancelling these out had become the point of all manumissions.

For urban domestic slaves in Southern Europe, the function of manumission became once again limited to a 'carrot' for continued good service, and to that end the freedom that was being offered had to be significant. Perhaps for this reason, manumissions of slaves in the later middle ages often involve much more complex contracts stipulating particular conditions, for instance delaying the effect of the manumission for a set number of years, or making it conditional upon the fulfilment of particular duties or a payment in instalments. But however incremental the freedom that was being offered in these cases, these restrictions and obligations were explicitly understood as transitional, not permanent, and there seems to be no doubt that to all parties involved manumission meant that the ex-slave would eventually gain the right to leave once the manumission came fully into effect.¹⁹⁰ The commercialized urban context in which these manumissions took place was

¹⁸⁹ Jordan, *From Servitude to Freedom*, on France, points to the financial benefits of manumission to lords. On England and France: Hyams, 'La joie de la liberté', and the eagerly anticipated *The Joy of Freedom and the Price of Respectability*. One also finds serfs purchasing freedom in Catalonia, but without any continuing legal disability or enduring special relationship with the lord: unlike in the early middle ages, independence was the point (Freedman, *Origins of Peasant Servitude*, pp. 103–6). For a classic study on French manumissions of the later middle ages: Bloch, *Rois et serfs*. Northern Italian collective manumissions in the thirteenth century have much more to do with political conflicts between lords and communes (not least over the taxable population); for a useful account, see Panero, *Servi, schiavi e villani*, pp. 279–95.

¹⁹⁰ Blumenthal, *Enemies and Familiars*, pp. 198–9 (on precise terms as 'business arrangements': p. 208). Compare the monthly instalments and contracts discussed by Soyer, 'Muslim freedmen', discussing Spanish examples outside Catalonia. For similar arrangements in Crete: Wright, 'Vade, sta, ambula', pp. 209 and 213–14. Even the most negative evaluation of freedmen's status in late medieval Spain (Plazolles Guillén, 'Trayectorias sociales de los libertos') argues they were excluded from the community not through a continuing relationship with their patron once the conditions of the manumission had been fulfilled, but largely based on their origins as cultural outsiders (Tartars, Russians, Muslims; black Africans were in the most precarious situation, since they were more or less assumed to be slaves: Blumenthal, *Enemies and Familiars*, Chapter 7; Casares, 'Free and freed blacks').

clearly what made economic independence achievable for freedmen. This was only possible where slavery coexisted with significant demand for wage labour. By the later middle ages, then, manumission amounted much more straightforwardly to a transaction involving money and labour, and fulfilled a smaller range of distinctively *social* roles.

Manumission in the early medieval West, then, was in comparative terms extremely peculiar: it fulfilled functions that were much more varied than in most other societies with slaves, and had to take into account considerations that went much beyond the negotiation of a binary relationship between ex-master and ex-servant. Its evolution responded to the specific conditions of the period. Its trajectory, however, was too complex, varied, and ad hoc to contribute in any significant way to a different and new definition of unfree status, or to a new servile class. The notion that freedmen contributed significantly to the construction and conceptualization of 'serfdom' has been a crucial element of French, German, and English historiography on the subject, but it is not borne out by the available evidence, and should be relegated to the status of a historiographical myth. Freedmen and manumission practices changed profoundly with the character of both unfree status and the pressures acting on free society; what they did not do was generate change in and of themselves.¹⁹¹ Manumission is important for our understanding of freedom and unfreedom in the early middle ages not because it can show us a linear trajectory from slavery to serfdom, but because it shows an expansion in the different strategies to which legal status could be relevant: changes in legal status, whether into or out of unfreedom, served a much greater range of purposes than they did in either earlier or later periods.

¹⁹¹ On the low systemic impact of manumission in slave societies more generally, see Pétregrenouilleau, 'Processes of exiting the slave systems', pp. 234–43.

PART II

REGULARITIES: THE LOGIC OF DIVERSITY

4

Household Slavery and Service

This section of the book deals not with how individuals might move from freedom into unfreedom or vice versa, and what it meant for them, as in Part I, but with why the category of unfreedom was being reproduced in the first place, and by what mechanisms. Unfree status could clearly fit into a large variety of different strategies of exploitation, which varied according to setting. A claim of unfree status for purposes of coercion and exploitation would have had a very different point, for instance, depending on whether it was being used to assert authority over people who were embedded in a community, as typically happened for the larger-scale organization of labour on big estates; or whether it was, instead, intended to subject people who could be controlled directly within the household unit. This distinction between different scales of organization is arguably more fundamental than the type of activity unfree people engaged in—such as urban versus rural, or agricultural versus domestic activities, which can be difficult to isolate from each other during this period in any case. The main questions for the next two chapters, then, is: what was unfree legal status being used for in each of these settings, household and estate, in different regions of Western Europe? What did it have to offer in comparison with other possible tools of domination? What sorts of people were being distinguished from which others through its application, and why?

This chapter will consider the ‘household’ scenario, the most common across all of the various regions discussed in this book. The household is the lowest common denominator setting for slavery in all societies with slaves, since it is potentially relevant to any social and economic set-up, from the simplest to the most complex. Household slavery could therefore fit into a much greater variety of types of economy and society than the larger-scale exploitations discussed in Chapter 5. We can nevertheless expect it to yield some common traits across all these regions, if only because direct supervision is more likely to have yielded hard-line practices of unfreedom, which one might call ‘slave-like’ rather than ‘serf-like’—simply because controlling labour at the level of the household constituted much less of an organizational challenge, and so called for less negotiation at the outset.¹

It is not surprising, then, that the surviving evidence for this type of slavery tends to be most extensively relied upon by those early medievalists who are proponents of extreme continuity from Roman slavery.² It is important, however, not

¹ Fenoaltea, ‘Slavery and supervision in comparative perspective’.

² Bonnassie, ‘Survie et extinction’.

to think of the harshest forms of unfreedom as somehow automatically ‘Roman’ and old-fashioned, while the less heavily supervised, ‘serf-like’ ones are seen as more ‘medieval’ and more in tune with the times. Not all early medieval experiments involving unfree status went in the direction of serfdom: they could also involve doing some quite new things with household slavery. Household slavery, at least outside Byzantium, in fact seems to have had relatively little to do with Roman antecedents: if anything, it had more in common by then with the type of low-level, small-scale slavery at the peasant household level found in most areas of Western Europe—including some that had never been part of the Roman Empire, like Ireland or Scandinavia.³

I will start with two extreme examples—the furthest apart both geographically and in terms of economic sophistication: Byzantium (urbanized, monetized, economically very differentiated, with specialized production and many different available alternative forms of labour, including contractual ones), and Ireland (for most of the early middle ages not urbanized, not monetized, and economically much less sophisticated). Household slavery is clearly identifiable in both these areas; indeed, in both regions, unlike in most others, it was primarily in order to meet household needs that unfree status tended to be deployed, since unfree tenancy did not feature prominently in either. The types of household slavery these two societies came up with were predictably different from each other, since status needed defining for very different reasons in each of them, so these two contrasting examples will also help to give a sense of the range of different possibilities. I will then move on to other Western European regions where the evidence for the uses and extent of household slavery is more ambiguous, and where the conceptual distinction between household and tenant farm itself can be harder to apply to the surviving evidence than one might expect.

BYZANTIUM

I will limit myself here to examples relating to the city of Constantinople during the long tenth century, which corresponds to a peak of particularly rich evidence for slavery (this period, possibly as a result, is also sometimes considered as a moment of renewal in its importance).⁴ The resulting picture is naturally not representative of household slavery in the Byzantine Empire as a whole, but it constitutes a useful foil to the other regions considered here, because it corresponds to a type of urban household slavery not found in the Christian West until much later

³ Scandinavia is not covered in this book, since almost all evidence regarding status is so much later in date, but see Karras, *Slavery and Society in Medieval Scandinavia*.

⁴ On Byzantine slavery up to 1200 see Rotman, *Les esclaves et l’esclavage*. For earlier studies, see also Hadjinicolaou-Marava, *Recherches sur la vie des esclaves*; Kazhdan, ‘The concept of freedom (*eleutheria*) and slavery (*douleia*) in Byzantium’. On Byzantine slavery in the later middle ages, see Köpstein, *Zur Sklaverei im ausgehenden Byzanz*.

in the middle ages—though something not dissimilar could almost certainly be found in Muslim Spain during the early and central middle ages.⁵

Constantinople yields two major saints' lives from the mid-tenth century in which slaves feature prominently: the *Life* of the imaginary saint Andrew the Fool and the *Life of Basil the Younger*.⁶ Literary sources, operating as they do outside a technical legal context, often do not make it completely clear what the precise status of their characters is: the term *doulos*, and especially *oiketês*, could be ambiguous, and refer to household servants more generally.⁷ In these two Lives, however, we find many unambiguous slave characters, whose status is made clear precisely because their role in the narrative is bound tightly with their legal subjection. Both texts, for instance, address the issue of how far slaves might or might not be expected to resist their master's demands—notably on the subject of sexual relationships.⁸ These moral quandaries lead to a productive reflection on the limits of responsibility in situations of restricted choice. The hagiographers adopt very divergent standpoints on this issue, and may have been writing in dialogue with one another.⁹

House servants are unusually visible in these two texts because both saints interact a great deal with great aristocratic households (the house of Epiphanius in the case of Andrew the Fool, a range of high-ranking admirers in the case of Basil) and offer extended object lessons on the personal relationship binding master and slave, which is presented as potentially perilous to both.¹⁰ Andrew is himself a slave to begin with, and before he can pursue his vocation as a holy fool, he has to alienate his master entirely, and, through increasingly erratic behaviour, exasperate him into granting him his freedom. Basil spends much of his time in the company of slaves, and has a close relationship with many slave characters: for instance Theodore, a slave devotee of Basil's,¹¹ and Basil's own old house-servant Theodora, whose virtues are extolled in the *Life*, and who even gets her own extended narrative section in which she goes on a visit to the underworld accompanied by angels.¹² In both Lives, slaves therefore feature chiefly in a domestic setting, as the servants

⁵ For slavery in documentary sources from Muslim Spain, see de la Puente, 'Slaves in Al-Andalus', and the documentary models from Cordoba included in the collection of Ibn Al-'Aṭṭār, *Formulario notarial y judicial*.

⁶ The *Life of Andrew the Fool* is set in the late fifth century, and was probably written in the 950s (for the date: Rydén, *The Life of Saint Andrew the Fool*, vol. 1, pp. 41–56, *contra* Mango, who had argued for the late seventh century: Mango, 'The Life of Andrew the Fool reconsidered'). The *Life of Basil the Younger* is set in the first half of tenth century, and was composed some time after 956. Many similarities have been noted between the two: Rydén, 'The Life of St. Basil the Younger and the date of the *Life* of St. Andrew Salos'; Magdalino, 'The holy man as literary text'.

⁷ Prinzig, 'Hausbedienstete oder -sklaven in Byzanz'; Prinzig, 'On slaves and slavery'.

⁸ See especially *Life of Andrew the Fool*, c. 17, p. 84, line 1085; or *Life of Basil the Younger* II, 33.

⁹ As Magdalino suggests ('The holy man as literary text'); see Chapter 6, pp. 224–6.

¹⁰ For instance, on the excessive punishment for slaves' offences: *Life of Basil the Younger* III, 36–41.

¹¹ Magdalino, 'The holy man as literary text': Basil as the 'patron saint of household slaves' (p. 97). On the special attachment of the slave Theodore to Basil: *Life of Basil the Younger* III, 2 (p. 280), but his fellow-slaves are also said to have had 'a far from casual acquaintance' with the saint (εἶχον σχέσιν οὐ τὴν τυχοῦσαν). On slaves in this *Life*, see Angelidi, 'Δούλοι στὴν Κωνσταντινούπολη τὸν 10^ο αἰ.', commenting on the stories of seven slave characters in the *Life*.

¹² *Life of Basil the Younger* I, 26 on Theodora in her lifetime; her visit to the underworld takes up very nearly all of Book II.

of rich men. They are generally presented as exotic, and by implication purchased: Andrew the Fool himself is a ‘Scythian’, that is, probably a Slav, though the hagiographer hastily adds that no-one would have thought so to look at him.¹³ The many different languages found within a single large, cosmopolitan urban household come out especially clearly in Chapter 19 of his *Life*, in which Andrew speaks to all the slaves in Epiphanius’s household about their sins, and, ‘most marvellous of all’, each understands his words in his or her own language.

Overall, then, slaves take on their main significance in both narratives as an important aspect of the moral economy of the high-ranking aristocratic household. The *Life of Basil* also features slaves involved in artisanal production: for instance, Theodore, Basil’s admirer, is the slave of a workshop owner (*ergastêriakos*) and works as his foreman (*prôteuôn*), responsible for the business. As such, he attracts the envy of one of his fellow-slaves, who gets an old woman to cast a paralyzing spell on him which only Basil can cure (III, 2–4).¹⁴ Even in a workshop context, the *Life* retains the sense of a close working and emotional relationship, founded on the necessity of trust: Theodore is so loved by his master that he is entrusted with the management of ‘all his master’s possessions’—a ‘good servant’ trope not unusual in Byzantine saints’ lives, in a sometimes explicit biblical parallel with Joseph in Potiphar’s household.¹⁵ This need for trust is paralleled by a very keen sense of threat at the possibility of betrayal, if too much faith was placed in the wrong person: in the *Life of Basil*, for instance, a housekeeper, who had been ‘honoured above all others’ (III, 31) by her master, a high-ranking eunuch, and to whom he again entrusted ‘all his property’ (III, 35), plots to drug and rob him; in the end, Basil saves him and she is sold to foreign traders as punishment.¹⁶ Productive and domestic uses thus seem, in saints’ lives at least, to yield substantially similar concepts of the personal and emotional bond involved between master and slaves. Such close as well as profoundly unequal and volatile relationships apparently made slaves in tenth-century Constantinople particularly good to think with for hagiographers, in a way that is more or less without parallel in Western Latin saints’ lives.

Contemporary legal texts, by and large, back up the picture from saints’ lives. Laws themselves are often not a great deal of help, operating as they do at a high level of abstraction; the Novels of Leo VI, from the beginning of the tenth century, do discuss slaves and indeed contain some quite new and interesting provisions, but unfortunately they also tend to give practically no contextual detail regarding

¹³ *Life of Andrew the Fool*, Prologue; on ‘Scythian’ = Slav here, Rydén, vol. 2, p. 304, n. 4.

¹⁴ There are other examples of slaves belonging to artisans: in *Life of Basil the Younger* III, 5–7, Basil heals another sick slave belonging to another workshop owner; in III, 10 a young man cured by Basil turns out to be the slave of a workman (*cheiromachos*: on this word, *Life of Basil the Younger* p. 291, n. 23).

¹⁵ Andrew the Fool himself is said to have been an excellent slave; see also the case of Peter the tax collector in Leontius of Neapolis, *Life of John of Cyprus*, c. 21 (*Vie de Syméon le Fou et Vie de Jean de Chypre*). For an explicit parallel with Joseph, see the case of Elias the Younger, in a Calabrian *Life* probably written in the 930s: *Vita di Sant’Elia il Giovane*, c. 9.

¹⁶ *Life of Basil the Younger* III, 31–5.

who slaves were or what they did.¹⁷ Two crucial and somewhat more eccentric documents do, however, survive to flesh out the picture. The first is the *Book of the Eparch* (c.912), a collection of twenty-two chapters listing the regulations pertaining to various professions, or guilds, in Constantinople.¹⁸ A great many different slave jobs are listed, again, essentially within an urban, productive setting, as artisans or business agents, in diverse positions ranging from notaries to silk-makers, merchants, perfumers, candle-makers, soap-makers, grocers, saddlers, butchers, fishmongers, bakers, inn-keepers, carpenters, locksmiths, painters, and so on. In fact, there is a wider variety of activities listed for slaves than for short-term contract salaried workers (*misthioi*), since, unlike the latter, a slave might hope to become foreman of a workshop on behalf of his master, as we saw in the case of the young man in the *Life of Basil the Younger*. Slaves may have been seen as more reliable than salaried employees; they were at least certainly much more open to the threat of corporal punishment. Trust, though, did not reach the point of allowing slaves to be put at the head of a bank: this, along with the jealously guarded secret of the final stages in the preparation of silk, is the only limit placed in the *Book of the Eparch* on the professional activity of slaves.¹⁹ Both banking and silk-making evidently involved too serious a responsibility to be placed on someone unable to refuse even potentially inappropriate orders from their master.²⁰

The other main legal source to provide any detailed hints regarding the activities and functions of slaves is the extraordinary collection of legal decisions known as the *Peira*, once again with an emphasis on commercially obtained slaves operating in an urban setting, though here generally presented in a more narrowly domestic rather than artisanal context.²¹ Some cases discuss the use of slaves as military retainers (these are chiefly featured because of the difficulties involved in determining who, their master or themselves, should be held responsible for any acts of

¹⁷ *Novelles de Léon VI* le Sage no. 38 (imperial slaves are to be able to dispose of their own property as they wish; although Leo does not impose this on any other masters, but encourages it); no. 40 (on captives); no. 59 (self-sale); no. 66 (theft of slaves); no. 100 (mixed marriage); and no. 101. See Rotman, *Les esclaves et l'esclavage*, pp. 257–8.

¹⁸ Koder, *Eparchenbuch*, at pp. 31–2 for the dating. For an English translation: Freshfield, *Ordinances of Leo VI c. 895 from the Book of the Eparch*. Hadjinicolaou-Marava, *Recherches sur la vie des esclaves*, pp. 46–7; Rotman, *Les esclaves et l'esclavage*, pp. 141–50; Papagianni, 'Byzantine legislation on economic activity'; Dagron, 'The urban economy', especially pp. 420–1.

¹⁹ Koder, *Eparchenbuch* 3, 1 (p. 88); 7, 3 and 7, 5 (pp. 100–2).

²⁰ Rotman, *Les esclaves et l'esclavage*, pp. 148–9, also speculates that slaves may have been placed at the head of a workshop by their master partly as a way of making them take the brunt of penalties if the business was found to be in contravention of regulations. Perhaps these restrictions were intended to avoid masters using this as a way of deflecting responsibility in cases of embezzlement (for banks) or trading of state secrets (in the case of silk).

²¹ The *Peira* were probably compiled in the mid-eleventh century, and are based on legal decisions made by Eustathios Rhomaïos, judge at the court of the Hippodrome, who died in 1034. Oikonomides, 'The "Peira" of Eustathios Romanos'; on slavery in particular: Köpstein, 'Sklaverei in der "Peira"'. The only example of agricultural slaves mentioned (outside a citation from an earlier law) is *Peira* 6.21 (Köpstein, 'Sklaverei in der "Peira"', p. 7, p. 12: the case relates to slaves pledged at the same time as the field they were on). There is also no reference to artisanal activities such as those mentioned in the *Book of the Eparch*: Köpstein, 'Sklaverei in der "Peira"', p. 26.

violence committed).²² By far the greatest proportion of entries about slaves (31 per cent) deal with problems that might come up when buying and selling them.²³ Of course, any type of property changing hands is bound to feature heavily in a legal collection, but this dominance of buying and selling as the key themes is nevertheless symptomatic; it certainly finds no parallel in any law-code or notarial formulary from the Latin West, where slave trading for an internal market was comparatively much less common.

All this suggests a wide range of uses for slaves, including domestic labour for high-status households, but also specialized, skilled labour for artisanal production, or as business agents.²⁴ Evidently, slaves were not exclusively confined to the role of 'display' slaves.²⁵ The employment of slaves in all such cases involved a need for trust, which may have encouraged a preference for slaves who had been totally uprooted from any previous social relationships—as is suggested by the emphasis on slaves' foreignness in literary sources, and on buying and selling in legal ones. It is harder to tell how far down in society slave ownership may have penetrated, particularly elsewhere in the Empire. Of course, this is partly a result of the elite, and urban, focus of most relevant surviving sources: the *Peira* involve the court of the Hippodrome in Constantinople; the *Book of the Eparch* mainly deals with urban manufacturing; Andrew and Basil are 'the most uncompromisingly urban of all medieval Byzantine holy men'.²⁶ This certainly does not mean that there were no slaves to be found in rural households outside Constantinople. There was some reliance on unspecialized household slave labour, pitching in generally when required, in a rural context as well: one record of sale from 897, which mentions a not particularly well-off couple reserving a small plot of land for their one freedman named George, probably gives a fair sense of this sort of low-level, all-purpose reliance on slave labour.²⁷ Even at a much more elite level, the earlier ninth-century *Life of Philaretos* showed slaves in a rural aristocrat's household engaging in both domestic and agricultural labour.²⁸ This unspecialized labour suggests that these were not large-scale operations, and it is generally agreed that slaves did not constitute in any sense a key workforce of great estates in the Byzantine Empire.²⁹ It is

²² *Peira* 28.6 + 42.17 + 66.25 + 66.28 (a complicated single case with different sections placed under separate headings); 66.27.

²³ Köpstein, 'Sklaverei in der "Peira"', p. 17. Slaves feature as bought rather than captured: no reference is made to captives (p. 26).

²⁴ Dagron, 'The urban economy', p. 421.

²⁵ Like later medieval slaves, and in a contrast with Roman ones, Byzantine slaves were long thought of as essentially unproductive, and as economic parasites: Rotman, *Les esclaves et l'esclavage*, p. 32.

²⁶ Magdalino, 'The holy man as literary text', p. 87.

²⁷ *Actes de Lavra* I, no. 1.

²⁸ *Life of Philaretos*, pp. 60–2.

²⁹ Kaplan, *Les hommes et la terre à Byzance*, pp. 276–7, and, at p. 333: 'l'esclavage ne fournit plus que des serviteurs, les terres du magnat sont loties.' Kazhdan and Epstein, *Change in Byzantine Culture*, pp. 9–10; on the use of unfree labour in a rural context, for which evidence is pretty thin, Rotman, *Les esclaves et l'esclavage*, pp. 156–71; more generally, Rotman, 'Formes de la non-liberté dans la campagne byzantine', pp. 503–4. The widow Danielis, who is said to have left eighty estates and three thousand slaves to Leo VI in her will (*Theophanes Continuatus* V, 77), was evidently thought of as an exceptional case (to the point of reaching legendary proportions: Kaldellis, 'The study of women and children', p. 63); even within the confines of the story, Leo seems to have had no idea what to do with so many, since he sent them as settlers in Southern Italy.

probably telling that slaves should suddenly become so much more visible in sources with a strong urban focus, when comparatively little narrative detail exists to flesh out their presence in the countryside or in villages.

Although there is some evidence for the use of slavery in a rural context, then, the institution as it developed in the minds of commentators and legislators did not cater primarily to it. While slavery clearly found a place in a wide variety of different settings, for both productive and non-productive functions, the main forms of literary and regulatory engagement with it tended to focus on urban uses, and, among those, predominantly on domestic service in elite households. This is in marked contrast with what we find in most of Western Europe, where even household slaves fulfilled substantially different needs.

IRELAND

Ireland stands at the other extreme from Byzantium, not only geographically, but also in terms of level of discontinuity from the Roman Empire, as well as economic complexity. There too, however, household slavery seems to have been the main form of unfree labour envisaged—which only goes to show how flexible household slavery is, and how different the contexts into which it can fit.

As in Byzantium, one of the functions of household slavery was conspicuous display, though in a very different style. In Constantinople, as we saw, most slaves were foreigners. Their display value, however, seems to have been connected more with the expense involved in buying someone of exotic origins, as opposed to deriving from their capture in war, which is generally left unmentioned; many of them would have been imported as commodities rather than deriving directly from Byzantine military success. In Ireland, by contrast, the connection between slaves and capture was part of what made them an effective display of power. Either way, captured or bought, it is unlikely that they would have contributed any real sense of cosmopolitanism to the Irish household, since higher political fragmentation meant that raids mostly took place on neighbouring territories situated very close by. A commentary on the law tract *Uraicecht Becc* mentions that slaves from abroad were worth more than native Irish ones not because they had a higher prestige value, but because that made them less likely to run away.³⁰ Even they would presumably not have come from much further abroad than Western Britain. In other words, their prestige value was as embodiments of political domination more than as cultural outsiders or expensive commodities.

The capture of women seems to have played a particularly important role in the construction of successful warrior masculinity.³¹ This does not mean that slave women were necessarily much more common than slave men: the use of *cumal*,

³⁰ Eska, 'Women and slavery in the early Irish laws', p. 32. This text does not belong to the original tract, and so is not included in MacNeill, 'Ancient Irish law'; for a translation, see *Ancient Laws of Ireland* (a collection much criticized for both its editions and translations), vol. 5, p. 111.

³¹ On this, see Wyatt, *Slaves and Warriors*.

which originally meant a female slave, as a unit of currency is presumably telling for some early historical point when this usage developed, but by the time our texts were written it had become an abstract unit: in the eighth-century *Saga of Fergus MacLeti* it is in fact distinguished from a ‘human’ *cumal*, as in an actual slave-woman (or, to use the more standard word used in English translations, ‘bondmaid’).³² Still, captive women played a particularly meaningful role in the gendered expression of political dominance, and there seems to have been a widespread expectation of sexual exploitation of female slaves captured in war.³³ The association may have leant an enhanced symbolic value to the sexual service of female slaves in general, captured or not. Such routine sexual service is mentioned in penitential literature, and, in some versions of her *Life*, the birth of Saint Brigit was the result of precisely this kind of sexual relationship.³⁴

As an aside, it is striking that Ireland’s two founding male and female saints, Patrick and Brigit, both experienced a spell as a slave to a pagan master. This was less about emphasizing the equal humanity of slaves than it was about the special status of saints, and God’s role in effecting spectacular reversals or improvements in fortune.³⁵ As in Byzantium, these saints nonetheless still needed to become free from earthly masters before they could fulfil their destiny. Slavery was meaningful as a symbol in saints’ lives precisely because of the extreme powerlessness and loss of control over one’s own destiny associated with this condition. This turned it into a powerful illustration of the more general powerlessness which right-thinking Christians understood to apply to all men regardless of status, through subordination to God’s will. The impact of the metaphor in religious terms also reflects how important were the acts of freeing and binding as means of signifying power: to that extent, it parallels the secular understanding of what power and domination were about. This is displayed with particular clarity in *Críth Gablach*, a law tract on status which includes a description of the layout of a royal hall, in which the royal entourage includes some people freed by the king from captivity or from execution for a crime, as well as, conversely, some forfeited hostages displayed in chains.³⁶

More work has been done on slave-taking than on slaves’ practical roles within Irish society, but it is generally accepted that slaves, alongside their display function, also played a productive role within the household economy.³⁷ Legal texts supply lists of ‘servile’ tasks: ‘spinning, baking, and dairying’ for women; ‘plowing, threshing, woodcutting, and cattle-herding’ for men. It is hard to imagine, however, that

³² Binchy, ‘The Saga of Fergus Mac Léti’, p. 40; Kelly, *Early Irish Farming*, p. 592. See also Kelly, *Guide to Early Irish Law*, pp. 112–13.

³³ Charles-Edwards, *Early Christian Ireland*, pp. 68–9. For examples from saga and poetic evidence, see Eska, ‘Women and slavery in the early Irish laws’, p. 31.

³⁴ E.g. Penitential of Finnian cc. 39–40: Bieler, *The Irish Penitentials*, p. 88. *Bethu Brigte*, c. 12; *Vita prima sanctae Brigitae* c. 1 (for an English translation based on a new edition: Connolly, ‘*Vita prima Sanctae Brigitae*’).

³⁵ As also in Findan’s case: see Chapter 1, p. 30.

³⁶ *Críth Gablach* 134–5, pp. 305–6. See Charles-Edwards, ‘*Críth Gablach* and the law of status’. The tract unfortunately omits discussion of unfree status.

³⁷ Kelly, *Guide to Early Irish Law*, p. 96; Charles-Edwards, *Early Christian Ireland*, p. 80.

these tasks could have been restricted to slaves.³⁸ One sentence from the legal collection *Senchas Már* suggests an inextricable bond between female slaves and grinding corn on a quern ('Mugdorn daughter of Mug was the first female slave who first operated a quern amongst the Irish'), and in a late ninth- or very early tenth-century glossary the entry for *cumal* claims that the word comes from the Latin *cum mola*, 'with a quern', 'for this is the work which female slaves used to do before water-mills were made'.³⁹ The invention of said watermill was also in fact linked with a female slave: as the story went, the first such mill was brought to Ireland by King Cormac mac Art, who, having got his slave Ciarnait pregnant so that she was unable to grind corn, took pity on her and brought a millwright 'from across the sea'.⁴⁰ But in all these cases the original connection seems to be located in the faraway past. The association with slave-women may simply have been due to hand-grinding, as a physically demanding and not particularly skilled task, being seen as low-status labour par excellence—but it was evidently not the preserve of slaves, since the wife and daughters of a commoner (*ócaire*) were expected to do it too.⁴¹ Anyone who was not a lord (*flaith*) or a king was expected to engage in some kind of manual labour.⁴² Even a king's retinue was expected to shrink significantly during the month of sowing.⁴³ Generally, then, there is little that seems distinctive about the work of slaves, which may partly explain the general disjunction between discussions of labour and discussions of status in the surviving sources.⁴⁴

The most common context for production probably involved small-scale farms in which the labour of each member of the household could be deployed in an ad hoc way when needed, rather than requiring any particularly complex organization or a systematic division of labour between free and unfree. This, of course, is only what one would expect, given that Ireland was not very economically complex. That is not to say it produced no surplus, since it clearly had enough to support lords;⁴⁵ but it is not unwarranted to picture it very much at the poorer end of the spectrum compared to most other regions of Western Europe at that time. It is beyond doubt that there were, by and large, far more subtly graded distinctions of legal status within a lord's household than there were different available kinds of work for them all to do. Ultimately, the choice between free and unfree servants is thus likely to have reflected different forms of symbolic display more than different practical occupations. From descriptions of feasting, for example, it seems that the

³⁸ Brady, 'Labor and agriculture in early medieval Ireland', p. 131 and p. 143, n. 29; Kelly, *Guide to Early Irish Law*, p. 96; Kelly, *Early Irish Farming*, p. 438. The same goes for the range of things which Brigit is said to have done—milking, cooking, making butter, tending cattle and pigs: Eska, 'Women and slavery in the early Irish laws', p. 30.

³⁹ Breatnach, 'Law and literature in early medieval Ireland', p. 229, citing *Senchas Már* 23. For *cumal* = 'with a quern', Kelly, *Early Irish Farming*, p. 439.

⁴⁰ Gwynn, *The Metrical Dindsenchas*, vol. 1, pp. 21–3, poem no. 3. For further examples: Ó Corráin, 'Ireland c. 800', p. 564.

⁴¹ Ó Corráin, 'Ireland c. 800', p. 564.

⁴² Kelly, *Early Irish Farming*, p. 448.

⁴³ *Críth gablach* 127, p. 304; Kelly, *Early Irish Farming*, pp. 444–5.

⁴⁴ Brady, 'Labor and agriculture in early medieval Ireland', deals with slave labour in the specific context of ploughing, but does not quite succeed in connecting the two themes.

⁴⁵ A case has been made for growth in economic production before the Viking age: Davies, 'Economic change in early medieval Ireland'.

point of free servants was to have them sitting around one during dinner, in order to showcase not the ability to coerce service, but the liberality of the host's patronage, and his ability to summon into participation large numbers of free men.⁴⁶ The point of slaves, by contrast, was in having them *not* sitting, but hanging about on the sidelines. In that sense, the serving of a single dinner could embody both convivial consensus and brutal domination. Any really powerful lord presumably aimed to convey both in order to express his control to the fullest extent.

It may in fact have been especially crucial to erect strong distinctions between statuses (what one was) when the distinction in function (what one did) might not be so immediately apparent. Precisely because all people who lived on a lord's household resources played a central role in the theatre of power, making legal distinctions between different types of dependant is likely to have become important as an end in itself. The same considerations could explain the existence, which would otherwise be difficult to account for, of different intermediary statuses just slightly above *mug* and *cumal* (such as *fuidir*, *bothach*, *senchléithe*), all formally corresponding to subtly different shades between freedom and unfreedom, but at the same time expressing a more or less identical socio-economic relationship to a lord.⁴⁷ All these were probably concerned with status as a point of interest in its own right: as we saw in Chapter 2, status was something that could, in certain circumstances, take on a value of its own, and impose a particular interpretation of a socio-economic relationship, rather than being an uncomplicated reflection of it.⁴⁸ Either way, it is probably telling that these terms seem to multiply above all at the very edge of freedom and unfreedom: the point of these legal category-terms may well have been to help to distinguish their bearers from slaves, while still also maintaining a distinction from slightly higher ranks. All of these people may have had little else to go on to help them establish their sense of distinction in material terms.

In Ireland as in Byzantium, then, unfreedom was primarily oriented towards direct control at the household level, though for very different reasons. Slaves as chattels, whether as trophies or commodities, therefore seem to dominate the spectrum of unfreedom in places characterized either by tremendous wealth and economic complexity or, on the contrary, by a relatively low level of material differentiation. In both societies, of course, slave status granted the owner extensive

⁴⁶ On free servants in the entourage of kings, see Kelly, *Early Irish Farming*, pp. 443–4. In a poem describing Conchobar's court, apart from the most obviously high-ranking people, the list of people sat in the king's presence includes cup-bearers, leather-bottle makers, brewers, jesters, and 'other *dóernemed*' (so the lower elite), followed by horn-blowers, charioteers, flute-players, attendants, and finally, 'in a cubicle apart', hunters, fishermen, trappers, and fence-makers: O Daly, 'Lánellach tigi rich 7 ruirech'. On *dóernemed*, Kelly, *Guide to Early Irish Law*, p. 10. A probably tenth-century description of the royal court at Tara (*Tech Midchuarda*) specifies what drink ought to be given to the trumpeter and the cook, and also lists a house-builder, shoemaker, door-keeper, pipers, players of *fidchell* or chess, chariot-makers, jugglers.

⁴⁷ Charles-Edwards, *Early Irish and Welsh Kinship*, pp. 330 and 336. Kelly, *Guide to Early Irish Law*, p. 33; Kelly, *Early Irish Farming*, p. 441 notes the much greater variety in legal statuses than in socio-economic arrangements, and a multiplication of fine distinctions of little 'practical significance'.

⁴⁸ In the case of *fuidre*, whose status was explicitly transitional, it also probably involved concerns over possibilities of future mobility: see Chapter 2, pp. 70–2.

rights of control and domination over the person, but with very different emphases. In tenth-century Constantinople, slaves were far from being the main source of exploitable labour, since they coexisted with free wage workers, but they seem to have been preferred, for those who could afford them, for essential positions of trust within the elite household. To fulfil these, a close bond of trust was seen as necessary, and this simultaneously gave rise to the widespread fear that the relationship might prove dysfunctional. One of the main points of deploying slave status, in Byzantium as under the Roman Empire, was to establish property rights designed to keep the slave out of anyone else's jurisdiction; in that scheme what was being privileged was the establishment of a one-to-one connection, juridical, symbolic, and emotional, between master and slave, to the exclusion of all others. In Ireland, a great deal more symbolic display work was required in order to sort out honourable from dishonourable service, and legal status was partly used as a framing device for this purpose. There, deploying slave status as a tool of domination had the further use of helping to establish the relative positions of various members of a lord's household hierarchically in relation to each other, as well as to express the different symbolic terms under which they could fulfil otherwise relatively undifferentiated practical roles.

THE IBERIAN PENINSULA

Visigothic-era sources for household slavery are surprisingly thin. Laws certainly do offer plenty of references to slavery, some of which seem to make most sense in a domestic context.⁴⁹ Although they imply that a distinction was made between domestic slaves on the one hand and farmhands and unfree tenants on the other (since compensation for harm done to the latter was set lower), they still tend to treat all types of slaves as a single body subjected to the same rules, so it can often be hard to tell which group legislators primarily had in mind in any given clause.⁵⁰ As with so much else in the Visigothic code, laws relating to domestic slaves are usually extremely derivative of late Roman imperial legislation. They approach the household in very late antique terms; to the extent that they contain any innovation, it tends to lie in the direction of an even stronger ambition to intervene in family relations, and perhaps above all in sexual relations. Most envisage the household as the scene of possible conflict between slave, master, and master's family. The resulting impression is of a rather paranoid and suspicious domestic climate (for instance in laws dealing with slaves witnessing crimes or sexual misconduct in their master's household, when they might testify, and what their masters might try to do against them), as well as, conversely,

⁴⁹ There are several thorough existing accounts of slavery as an institution in the Visigothic laws: Verlinden, *L'esclavage dans l'Europe médiévale* I, pp. 61–102; Nehlsen, *Sklavenrecht zwischen Antike und Mittelalter*, pp. 153–250; King, *Law and Society in the Visigothic Kingdom*, pp. 159–83.

⁵⁰ *Liber iudiciorum* XI, 1, 1; III, 4, 15 (*servus idoneus* vs. *inferior* or *rusticus*); Verlinden, *L'esclavage dans l'Europe médiévale* I, pp. 80–1.

a deep concern on the part of legislators regarding inappropriately intimate relationships that risked raising slaves above their proper station (a concern especially magnified in the case of freedmen). Visigothic laws are unlike anything found in other Western law-codes in their overall sense of threat from slaves, fear of insolent behaviour from them, and their association with moral turpitude. They hold up a dark mirror to Byzantine laws, which, despite exhibiting some of the same concerns over misplaced trust, still took a much less unremittingly pessimistic view of domestic relations.⁵¹

However grim their imaginative world, there is nothing to suggest that Visigothic kings in fact had the sort of reach necessary for this legislation to make much of an impact—particularly for those clauses which masters would have had no interest in enforcing, such as those seeking to curb excessive familiarity with their own slaves and freedmen.⁵² Hagiography, unfortunately, does not really help to flesh out the picture, since slaves do not feature particularly prominently there. When they do, it tends to be through a saint's occasional miraculous cure of slaves belonging to the households of elite men, as in most other regions of Europe.⁵³ In the post-Visigothic period, from the eighth century onwards, the focus for the *Lives* of recent saints was oppression at the hands of Muslim foes rather than at those of rich Christian men, which inevitably means they offer rather less evidence for the day-to-day activity of the Christian household.

From the tenth century onwards, on the other hand, the very substantial archival sources surviving for post-Visigothic Spain and Portugal do yield more evidence for a continuing reliance on domestic slaves at a household level. Manumission documents predictably contain the most unambiguous references to them.⁵⁴ Marriage gifts and *dos* documents also include them fairly routinely: at least at the more elevated social levels, they clearly formed a part of what a new bride could expect to take with her into her husband's home, or to find there reserved for her own use. The marriage gift of moveable goods made by Jimena, wife of Munio Fernández, to her daughter Urraca at the end of the tenth century includes thirteen named slaves.⁵⁵ Occasionally we find the figure of ten male and ten female slaves (*pueri* and *puellae*), individually named. This reflects the maximum number allowed according to Visigothic law. Since this law mentioned that

⁵¹ On the depravity or insolence of slaves towards the free: King, *Law and Society in the Visigothic Kingdom*, pp. 177–9.

⁵² See Chapter 3, pp. 90–1.

⁵³ Braulio of Saragossa, *Life of Aemilian the Confessor* XIII–XIV (20–1); English translation: Fear, *Lives of the Visigothic Fathers*. One of only two notable things about Nancus, whose story is included in the *Lives of the Fathers of Merida*, apart from his deep anguish about the risk of being seen by women, was his death at the hand of some servants from a royal estate earmarked for his use, who were disgusted with his appearance and decided it would be better to die than to serve him. The fact that they belonged with the goods attached to the estate when it was transferred, and that Nancus is described as their *dominus*, suggests they are unfree, though they are only called *homines habitantes in eodem loco: Vitas Sanctorum Patrum Emeretensium*, ed. A. Maya Sánchez, III, at p. 23; tr. Fear, *Lives of the Visigothic Fathers*, at p. 57.

⁵⁴ E.g. *Celanova* I, no. 172; for more examples, see Chapter 3, nn. 56 and 57.

⁵⁵ *Otero de las Dueñas* no. 50, pp. 107–8.

the rule applied to the foremost (*primates* and *seniores*) among the Goths, matching that number must have amounted to a statement of status.⁵⁶

Testaments also picture domestic slaves operating as a normal part of the aristocratic household. Several survive from Catalonia: for instance, the testament of Sunifred II, count of Besalú, from 1 October 966, mentions the 'bought *servi* and *ancillae* you should make free for the good of my soul; and the others who belonged to my parents, let them remain with my brothers, except these two, that is, Stephanus and Amalaric, who went with me to Rome.'⁵⁷ All this confirms the picture from the *dos* documents, where domestic slaves formed an integral part of the aristocratic household. The perception of domestic slavery as a simple necessity of life, at least for those with any claim to elite status, may explain the particular concern to ensure that women would always have some slaves to serve them, especially after important changes in their household arrangements, such as marriage or the death of their husband. One document from 1220 suggests that this concern was very long-lasting, and reached into households that were not particularly wealthy: in it, a man asked the monastery of Sobrado to provide, along with food and clothing, one *puella* to serve his wife if she proved unable after his death to sustain herself independently on the lands he was leaving her.⁵⁸

The special interest in servants born in the household or inherited from parents suggests a different attitude towards them compared to those who had been bought. Perhaps there was an expectation of a stronger bond, or perhaps it was because generations of slaves constituted a better symbol for familial continuity in status. If this made their masters more sentimental about them, it was not always to the advantage of the slave—at least judging from one very odd document drawn up in 995, from Western Spain, in which a slave family seems to have been broken up to be used as gifts in order to reinforce their masters' own familial identity. Rodrigo Guimiriz and his wife Bassilissa had received as an inheritance a slave couple named Ero and Munnia, who had a daughter named Adosinda. When Adosinda was three years old, Rodrigo and Bassilissa had given her to another couple, Donnan Zalamiz and his wife Trudilo, in exchange for a share in some familial land. Ero and Munnia then had another daughter, Gossenda, who was only fifteen

⁵⁶ *Sobrado* I, no. 119 (887); *Celanova* II, no. 577 (926), p. 796. Also *Sahagún* no. 207 (962), p. 254, where the names illegible but look like they are in similar numbers. *Liber iudiciorum* III, 1, 5 (p. 127) allowed *dos* to involve property up to a thousand *solidi*, plus ten *pueri*, ten *puellae*, and twenty horses (the correspondence is noted by Davies, *Acts of Giving*, p. 169). In *dos* donations where many more *mancipia* are given, these tend to be listed separately after a substantial amount of landed property, and it seems more probable that we are dealing with unfree tenants being transferred along with the land they lived on (since no other source would support these kinds of numbers being held or managed directly by a single individual): see Chapter 5, p. 181.

⁵⁷ *Catalunya Carolingia* V, 1, no. 374 (pp. 336–7). Other examples: the 1021 testament of Bernat Tallaferro says the male *servi* whom he kept in his house ('servos vero omnes suos masculos quos in domo sua retinebat') should be freed, while the *ancillae* were to be kept for the use of his widow Tota: *Liber Feudorum Maior*, no. 497. The testament of Guifré of Cerdanya (8 November 1035) frees all his slaves, apart from some named ones who are to be kept by his widow—some 'women', two cooks and two *pastores* (judging by the domestic context, probably bakers, *pistores*, rather than shepherds): Junyent i Subirà and Mundó, *Diplomatari i escrits literaris de l'abat i bisbe Oliba*, no. 122, p. 208.

⁵⁸ *Sobrado* II, no. 194, p. 205.

days old at the time the document was written. Rodrigo and Bassilissa were now giving her as a gift to the daughter of Donnan and Trudilo: this daughter was Bassilissa's namesake, and they referred to her as their cousin (*congermana*). The shared name suggests that the kin relationship between the couples was through Bassilissa rather than Rodrigo, and the repeated transactions probably imply that all the resources involved, land-shares and slaves, were being exchanged and deployed as a means of securing and reinforcing ties on that side of the family.⁵⁹

From the tenth century we also start to find Muslim domestic slaves, though they become much more prominent in the record from the eleventh century. One Yaha Youssef, *servus* of Lazaro Tello, had clearly gained a position of trust as an agent, since we find him in 926 buying an estate on his master's behalf for twenty-five *solidi* and a barrel (of wine?).⁶⁰ Other documents, usually of gift or sale, provide similarly unambiguous references to Muslims as domestic slaves.⁶¹ These, like Christian slaves, were evidently used in a wide variety of different positions, so that it is often unclear exactly what they did; we certainly should not assume that Muslim slaves were necessarily employed in domestic slavery rather than rural work, or even unfree tenancy.⁶² The 911 donation from Ordoño II and Elvira to the cathedral of Santiago de Compostela lists the names of more than thirty *mancipia de gente hismaelitarum* 'whom we captured from the Ismaelites by your holy intercession'. Thirty is quite a lot, and the captives were probably intended to provide an additional workforce on the lands being transferred in the same document, as opposed to being used exclusively as part of the cathedral's domestic staff.⁶³ Then again, it is difficult to be certain, since the rural/urban division works much less well in this context than it does, say, for Byzantium: given the existence of fairly substantial urban plots, even an urban residence was no guarantee against agricultural work, and domestic slaves might well be asked to pitch in.⁶⁴ The ambiguity between different types of unfree labour is at its greatest when it comes to the workforce of large religious institutions. Almost exactly a century earlier, the testament of Alfonso II, from 812, had included a list of Christian *mancipia* to be given to the cathedral of Oviedo, some of whom had been bought

⁵⁹ *Portugaliae Monumenta Historica* no. 174 (995), pp. 107–8.

⁶⁰ León I, no. 71 (31 October 926), p. 119–20.

⁶¹ *Portugaliae Monumenta Historica* no. 14 (907): the donor gives his sister three women (evidently employed in domestic work) named Mariamen, Sahema, and Zafara, described as *mauras* (the same three turn up in no. 16 in 908, this time along three other slave women whose origin is not commented on). In no. 679 (1087), Pelagius Eriz gives an unnamed *maura* to the church of Coimbra, to be used for the redemption of a captive. *Sobrado* I, no. 421 (no date, but probably eleventh century) lists the descendants of a bought Saracen slave. Many more examples are listed in Verlinden, *L'esclavage dans l'Europe médiévale* I, pp. 118–71; see also Ruiz de la Peña, 'Siervos moros en la Asturias medieval'. For further comments on naming, see Kremer, 'Onomastique et état social', and n. 67 below. See also the *dos* in *Celanova* II, no. 576 (916), p. 795: all '*servos vel origine maurum*' (no number) are to be inherited by the wife.

⁶² García Leal, *Registro de Corias*, pp. 125–6, includes a genealogy including both a man enslaved for having killed the *maurus* of the countess, and some descendants of a 'mauro ... de seruicio rural'.

⁶³ *Tumbo A de la Catedral de Santiago* no. 21, pp. 77–9.

⁶⁴ On urban plots, Davies, *Acts of Giving*, p. 10.

or obtained (*adquisivimus/comparavimus*) from previous owners—including eight, listed at the top, who were clerics.⁶⁵ One deacon among them, Peter, seems to have been originally bought from a priest. The non-clerical *mancipia* listed after them along with their families may well have been intended for the domestic service of the cathedral church, which may or may not have included agricultural work, or perhaps they were tenants; it is practically impossible to tell.⁶⁶

Later, much longer lists of unfree Muslims featured in documents, particularly those where they are presented as family units of husband, wife, and children, do certainly look a lot more like tenants, since even the wealthiest religious foundations do not seem to have managed their lands through large-scale direct exploitation.⁶⁷ In practice, however, even tenants and household workers are not always easy to distinguish in the documentary sources for this region, since unfree couples might well form a separate household without attaining the kind of self-sufficiency necessary to warrant describing them as tenants; equally, they might both engage in agricultural work and supply domestic services. A list from Celanova identifies the descendants, over three or four generations, of unfree people who had been given by its founder Bishop Rosendo 'so that they would serve there'. The document describes itself as a *notitia de pistoribus*, and the vast majority of the people whose jobs are listed are indeed bakers. These could well have been tenants who simply supplied bread to the monastery as part of their dues, as many tenants did in Francia; but we also find among these unfree dependants two people who kept pigs, washed dishes, and prepared baths for the monks (Aulfus, who had done all this for Bishop Rosendo himself; his children; Petro Aquilion); three who were monks themselves (two called Peter and one called John); several male and female cooks; and one Peter Ossa who was both a cook and a gaol-keeper (*coquinarius et carcerarius*). These look rather more like domestic servants, but to complicate matters further the document also specifies at the end some yearly dues in money, counted in maravedís.⁶⁸ This suggests most were both doing jobs for the monastery and at the same time were gaining enough independent

⁶⁵ On unfree clerics, see Chapter 6, n. 26.

⁶⁶ García Arias and Miranda Duque, *Documentos orixinales*, no. 2, pp. 24–5 (= García Larragueta, *Colección de documentos de la Catedral de Oviedo*, no. 2). The scribe left thirteen lines blank after the names of the unfree clerics, presumably to leave space to add more. The authenticity of this document has been hotly contested, with important implications for the political history of the period: for a guide to the debate, see Arcadio Del Castillo, 'The Alfonso II document of 812', pp. 197–200. Compare *Samos* no. 128 (from 849), pp. 280–1, in which the *mancipia* (*sic*) Deodata is transferred alongside other goods to look after the priest of a church.

⁶⁷ The foundation document of San Juan de Corias, from 1044 (García Leal, *Registro de Corias*, pp. 50–1; = Hinojosa, *Documentos*, doc. XII) includes a list of *servi* 'de tribu hismaelitarum', with a long list of names including mentions of wives and children, followed by another group (not necessarily Muslims), stating that they should work two days a week for the monastery, and 'the other four days' (excluding Sunday) for themselves. *Celanova* II, no. 457 (1029), p. 627, also includes *mancipia ex gentes mabelitarum et agarini*, some of whose parents had already been dependants (*de avolengarum criazone parentum*).

⁶⁸ *Celanova* I, no. 158, pp. 222–6. The editor dates it to the tenth century, between the foundation of Celanova and the death of Bishop Rosendo in 977, but there is no need to think the document should have been written before his death; in fact, given the number of generations since the initial donation, this seems pretty unlikely. The reference to *maravedís* also suggests a later date.

earnings that they were expected to pay a cash tribute—perhaps tenants with special skills who were giving the odd additional day of service (how often does one need to cook in order to be called a cook?), or perhaps servants essentially deputized to the household, but additionally given a farm and the scope to earn their own keep and revenue. Either way, documents up to the twelfth century seem to suggest no strong conceptual distinction, but instead a great flexibility between different settings of employment.

The provenance of slaves (whether from birth and long-term attachment to the same family, from capture, or from sale), as well as their religion, evidently did lend them different symbolic values, but this did not automatically imply that any particular type would operate in any particular setting, at least during the tenth and eleventh centuries. Muslim slaves are certainly mentioned as such, as an added point of interest, and sometimes as a badge of honour and display; but at least until the twelfth century, they do not seem to correspond to any particularly distinctive uses. While the Celanova document described a couple of people as *mauri*, it did not make any rigorous distinction between descendants of Muslim captives and others. This is in marked contrast with another, very famous list of dependants made in Sobrado probably a little less than two centuries later, in the late twelfth century.⁶⁹ This text describes itself as a *Genealogia sarracenum*, and includes notes about marriage to local spouses, as well as baptisms, though some are said to have ‘died as pagans’. All the jobs listed are highly skilled, including stone-cutters, blacksmiths, pelterers, weavers, carpenters, and glass-workers. These slaves were evidently much more specialized, not only in terms of use, but also in terms of identification with a particular religious identity, and a lasting sense of difference.

These lists are quite odd documents, and two examples can only take us so far; but the basic contrast across time seems a fair illustration of the picture from a variety of other sources. During the twelfth century, a more specific equation between Muslim slaves and domestic and/or artisanal functions seems to have become more and more strongly established through most of the Iberian peninsula.⁷⁰ Household slaves and captive Muslims are assimilated to each other in both archival documents and municipal *fueros*, and they also start featuring very much more frequently in connection with a money price.⁷¹ Twelfth-century *fueros*

⁶⁹ Sobrado II, no. 108. Verlinden, *L'esclavage dans l'Europe médiévale* I, pp. 122–5, dates this to the eleventh century; it has been redated to the late twelfth or early thirteenth century by Portela and Carmen Pallares, ‘Los nombres de los siervos’, pp. 458–61. See also Carzolio, ‘Antroponimia servil en el Noroeste hispánico’.

⁷⁰ Verlinden, *L'esclavage dans l'Europe médiévale* I, pp. 135–6, claims that by the eleventh century, Muslim slaves were being used as commodities in Catalonia, while in the rest of Northern Spain they tend to be assimilated to ‘serfs’; but the opposition between these regions seems overly schematic, and it is hard to point to any profound differences in the tenor of documents mentioning unfree Muslims in either region. The opposition may be largely based on those few genealogies including unfree tenants who were either Muslims or descendants of Muslims, which are lacking for Catalonia; but it is hard to justify such a stark regional distinction on the basis of so few examples. Verlinden links all uses of the phrase *homines de criatione* or similar as ‘serfs’; but this phrase amounts more or less to the same thing as the *familia* of other regions of the Latin West, and is similarly vague: it certainly cannot be equated with any particular form of employment, rural or domestic.

⁷¹ Verlinden, *L'esclavage dans l'Europe médiévale* I, pp. 139–74.

seem to envisage exclusively Muslim slaves in an urban context; in Portuguese ones they are expected to exercise distinctively urban artisanal functions.⁷² Manumissions of individuals, by the twelfth century, start to involve mostly Muslims.⁷³ Unfree Christians, by contrast, by then never feature as anything other than a rural tenant workforce.

A much stronger category distinction was evidently at work by 1100 than had ever existed in the earlier middle ages. In that earlier period, unfreedom seems to have fulfilled a lot of very different jobs, from domestic service to tenancy, but it also seems to have been characterized by a fair amount of overlap between these different uses, and by a flexible and opportunistic deployment of status, involving Christians and Muslims potentially occupying similar niches, from household to tenancy, and with some possible crossover between the two over a lifetime and depending on individual skills. By contrast, in the twelfth century, the uses for different sorts of unfree people seem to have become much more streamlined and differentiated.

It is not particularly surprising that this rift should have happened then and not before, since it was dependent on the growth of a demand for specialized labour that was sufficiently strong to absorb large numbers of slaves dedicated exclusively to artisanal and household production; as well as, concurrently, on the existence of a supply abundant enough to allow a more stable division between Muslim captives and unfree tenants as two separate kinds of workforce, suitable for different uses. Muslim *mudejars*, who were not captives, were a different story, and could certainly be involved in tenancy agreements; but Muslim captives who were surplus to the requirements of domestic or artisanal work do not seem to have been shifted any longer to the position of rural tenants.⁷⁴ This may explain the increasing numbers of sales. In that sense, the beginnings of the possibility for a one-to-one match between religion and type of servile regime and employment may have indirectly led to the increasing sense of commodification of Muslim captives which Bensch has observed taking place in the late twelfth century.⁷⁵

Unfree status in Spain covered an enormous variety of different situations: different provenances for slaves (capture in war, purchase, birth); different functions (display, honour, labour); and different forms of exploitation (domestic service, artisanal production, unfree tenants). During most of the early middle ages, each of these parameters seems to have been taken on its own terms, with no strong sense of a conceptual rift separating out all these people more strictly: choices were largely about what worked best for the moment, and unfree labour seems to have

⁷² The Portuguese *fuero* of Santarem (1179) gives early evidence of Muslim slaves employed in urban crafts (e.g. shoe-making); Verlinden, *L'esclavage dans l'Europe médiévale* I, pp. 145–6.

⁷³ Soyer, 'Muslim freedmen'.

⁷⁴ They might still, of course, be deployed for agricultural activities as part of the household workforce, for instance working alongside their master, though this is documented only for the later middle ages (Blumenthal, *Enemies and Familiars*, pp. 98–9).

⁷⁵ *Fueros* do mention cash value much earlier than that, but Bensch has warned against taking what were chiefly ransoming values as an immediate sign that slaves had become a commodity—Muslim slaves did not become routinely associated with the activities of merchants until the later twelfth and thirteenth centuries (Bensch, 'From prizes of war to domestic merchandise', pp. 74–5).

been managed in an ad hoc, flexible, opportunistic and unsystematized way. Specialization, and the increasingly rigid matching of functions and conditions to different categories of unfree person, essentially on the basis of religious and cultural difference, was a relatively late, twelfth-century phenomenon—probably because it was only then that economic growth and urbanization made the specialization of household and artisanal slaves possible in the first place, with the effect of losing all connection between it and the possibility of tenancy.

ITALY

Rothari's Edict spends some time detailing the compensation prices for a large number of injuries that might be inflicted on different kinds of unfree people, distinguishing throughout between, on the one hand, an *aldius* or a *servus ministerialis* (the latter defined as 'taught and raised and proven in the household'), and on the other a *servus rusticanus*. These tariffs suggest that the hierarchy differentiating household from rural slaves was not a stable one: instead, they make functional distinctions, and therefore give a strong sense of what mattered most in either type of unfree dependant. For many injuries the penalties are in fact the same for all types of unfree person. For some, however, they are doubled for the household servant (or for the *aldius*, a superior kind of rural dependant). Whereas cutting off of a whole hand or a foot, for instance, was assessed at the same tariff for household and rural slaves, the amputation of individual fingers and toes was valued twice as highly for the household slave. This may have been because household slaves were engaged in more tasks involving fine motor control than rural ones—or because masters thought that they were, rightly or wrongly. Elsewhere, however, the main criterion for differentiation clearly involves aesthetic considerations, in the case of injuries affecting the effectiveness of household display. The beating of household slaves, if outward traces were apparent, was assessed at twice what was required if the same thing was done to a rural slave. Visible injuries to the face, the cutting of the nose, or breaking teeth all similarly involved a double payment for household slaves. Presumably this was because household slaves were more likely to be seen by friends and acquaintances, so that an unavenged visible injury was more humiliating to his master. It may be telling that cutting off an ear, by contrast, was assessed at the same amount for rural and household slaves—no doubt because it was less obvious, or easier to conceal.⁷⁶

This suggests household slavery, here too, involved a strong element of display as part of an elite household. A few documents from Lombard Italy give examples of household slavery at the level of the local elite. Laurent Feller, on the basis of high prices found in documents from the archival dossier of Toto of Campione, has argued that the slave trade was a very expensive luxury trade: bought and sold

⁷⁶ Rothari 76–125: hand/foot vs. fingers/toes: 113–24; striking the face: 80 and 104; cutting off the nose: 82 and 106; visible traces of beating: 125 (*Leges Langobardorum*).

slaves were exclusively domestic, and rural labour needs were met in other ways.⁷⁷ Despite this evidence, however, household slavery is also found, perhaps surprisingly, at lower social levels. For instance, in one document from the same archive, dating from 789, a certain Dominicus, an *alldius* of Toto's, is said to have owned a slave called Gaudentius.⁷⁸ Rothari's Edict had in fact mentioned the *servus rusticanus qui cum massario est*—that is, a slave assigned by a lord to a tenant, who might himself be either free or unfree. Two further laws also stated that *servi* and *alldii* were not to manumit *mancipia*, which confirms that slaves could be found in the households of unfree tenants (either because lords sometimes assigned slaves to their households, or because lords were counting them as property attached to the farm and claiming them as part of their own resources).⁷⁹ In a complicated scenario dating from 757, Felix, a *colonus* of Farfa, made a gift of land to Farfa effective after his death, including one *colona* named Ciottula (who may have worked his plot of land while he worked on the one he leased from Farfa), along with her son Theoderic and her daughter Formosula; 'another *ancilla*' named Ansula, said to serve him *ad manus*; and, most puzzling of all, 'half of my servant Mauronto'.⁸⁰

All this suggests that not all slaves were luxury purchases. When bought for a price, slaves do seem to be very expensive; at least that seems to be the case for nearly all those whose purchase price is known. These were probably mostly elite household slaves, but that does not mean that *all* household slaves were worth this. These luxury slaves may have been more expensive because they had been transported over a long distance, as with the foreign slaves bought by Toto. Sometimes the price tag may have been particularly steep because the slave was worth more to the buyer for personal reasons, for instance in the case of a sexual relationship. One example of the latter is the case of Boniperga, who was bought with her newborn son by two brothers for an extremely high price; by 770, a few years later, as another document shows us, she had had two more sons by one of the brothers, by then deceased (this second document recorded a gift to his sons by their uncle).⁸¹

When found lower down the social scale, it is likely that household slaves were not obtained through trade at all. The slaves deployed in tenants' households could well have come from altogether different sources of unfree labour, such as the sale of infants or foundlings, or the more unfortunate among the self-sellers or the penal slaves whom we met in Chapter 2, that is, those who had little else to offer

⁷⁷ Ermentruda sells a Gallic boy to Toto (Gasparri and La Rocca, *Carte di famiglia* no. 2 (725), pp. 309–10); Toto II buys two children for thirty silver *solidi* (no. 16 (807), pp. 336–7). Compare CDL I, no. 82 (p. 242), a testament from April 745 (near Monza), where a daughter is promised ten *mancipia*, four boys and six girls. Feller, 'Sulla libertà personale', pp. 194–6 on slaves as luxury items; on the Toto archive, Rossetti, 'I ceti proprietari e professionali'.

⁷⁸ Gasparri and La Rocca, *Carte di famiglia* no. 12; Feller, 'Sulla libertà personale', pp. 181–2.

⁷⁹ Rothari 134; Rothari 233 and 235 (*Leges Langobardorum*).

⁸⁰ '*medietatem de puero meo Maurontone*': *Regesto di Farfa* II, no. 39 (757), p. 47; see Costambeys, *Journal of Agrarian Change*, p. 98. See also CDL II, no. 231 (769, Pavia), for a testator giving unfree women to his servants (*pueri* of indeterminate status), along with a piece of land.

⁸¹ *Codex diplomaticus Amiatinus* I, nos. 11 and 17. See Rainis, 'Storia della schiavitù femminile', arguing that the high price suggests the sexual relationship pre-dated the sale.

other than their labour: all these were very different sorts of people from the exotic or prestige slaves that members of the elite sometimes secured through purchase, and they could have found a useful place as extra farm hands on tenancies.

There are fewer mentions of domestic slavery in documents after the Lombard era, but there are still signs that household slavery continued in Carolingian Italy. One remarkable example from an Italian capitulary dealt with a man who, after wrongfully appropriating a *servus*, got him to murder his masters (*domini*), two children, a nine-year-old and an eleven-year-old, and then threw him into a pit afterwards.⁸² The ninth and tenth centuries also yield the occasional gift, sale, or transfer of domestic servants from elite households in Northern Italy.⁸³ The evidence for household slavery in an urban context, and also for the slave trade, is generally much more continuous through the central middle ages in Southern Italy than in the North.⁸⁴ It is there that the trade in chattel slaves seems to have picked up again first, in Norman Southern Italy and Sicily, especially from the second half of the eleventh century.⁸⁵ This trade drew chattel slaves from much more diverse sources than in Spain, and documents regularly mention Slavs, Muslims, Greeks, or Bulgars.⁸⁶ Alongside these, however, one can still see a few people drawn from more local sources. Christians were clearly still fair game for buying and selling in the tenth century, and into the eleventh, including in the North, as is attested by the sale for eighteen *solidi* of a Burgundian *ancilla* named Erkentruda, 'healthy of mind and body', in Genoa in 1005.⁸⁷ Until the very end

⁸² *Capitularia* I, no. 129.

⁸³ Arezzo: Pasqui, *Documenti per la storia della città di Arezzo*, vol. 1, no. 30 (840): a gift including four 'personas manuales, pistorem, cocum, lavandarium et befulcum'. Fantuzzi, *Monumenti ravennati*, vol. 1, no. 48 (973), pp. 178–86: Duke Peter gives to the monastery of San Apollinare Nuovo a *servus* called Ursellus, *befulcus* (= *bovarius*), with his children, except one John, a baker (*pistor*) whom Peter was reserving for his own use. Some examples of household slavery in the Casauria cartulary: *Chronicon Casauriense* fol. 36, lines 22–4 (863) records the sale of the *servus* Martin by a certain Maio to the wife of a gastald for twenty *solidi*; fol. 53v, line 30: Adelbert gives his wife a *curtis* including six *mancipia ad servitium tuum perficiendum* (on these and other examples: Feller, *Les Abruzzes*, pp. 524–5).

⁸⁴ D'Alessandro, 'Servi e liberi'.

⁸⁵ Panero, *Servi, schiavi e villani*, p. 301.

⁸⁶ *Codice diplomatico Barese* V, no. 66 (1121), p. 114: Constantinus Calabriensis sells an *ancilla* named Draga and her daughter *ex genere Sclavorum*. In *dos* documents: *Codice diplomatico Barese* IV, no. 36 (1057), p. 75: an *ancilla* named Zita 'bonam, ex genere Sclavorum, cum membris sanis, apta ad omnem imperationem faciendum'; no. 42 (1065), p. 83: *ancilla Setanna nomine cum suo filio Nicolula ex genere Saracenorum*. For further examples, see Panero, *Servi, schiavi e villani*, p. 301, p. 329, n. 196, and Chapter 9; also Verlinden, *L'esclavage dans l'Europe médiévale* II, pp. 101–13. On the Eastern coast, notably in Puglia, the majority of traded domestic slaves (mostly mentioned in marriage gifts and testaments) seem to have been Slavs rather than Muslims well into the thirteenth century: Martin, 'L'esclavage en Pouille'.

⁸⁷ *Codex Diplomaticus Cavensis* II, no. 244 (Salerno, 966), pp. 41–2: two Frankish *mancipia* transferred, as well as one woman 'mancipia' named Regauda, who had one son whom the abbey was not transferring along with her, but retaining for the service of the church, 'faciendum de illius persona omnia quod voluerint'. Verlinden, *L'esclavage dans l'Europe médiévale* II, p. 105, and also pp. 110–11. Buying from Muslims: *Regii Neapolitani Archivi Monumenta* no. 13 (928), pp. 44–6: a son promises his father to abide by his intended *post-mortem* manumission of slaves he had bought from Saracens ('*famulas et famulo tuo quos a saracenos comparatos habere videntur*')—these are named Uviseltruda, Rosa, and Leo, suggesting they were probably Christians (renaming after baptism would be another possibility, but it rarely yields names like Uviseltruda). For Erkentruda: *Cartario Genovese*, no. 42 (9 July 1005), pp. 67–8.

of the twelfth century, Genoese documents show that chattel slaves were routinely drawn from Sardinia.⁸⁸ It is only from the thirteenth century that they begin to yield a picture more characteristic of later medieval Italy, that is, with a slave population consisting essentially of religious outsiders, and involving markedly more women than men.⁸⁹ Evidently it took a long time for the distinction between those who were legitimately enslavable and those who were not to become settled roughly along religious lines. Overall, then, although domestic slavery seems to have been a very continuous phenomenon across our period, there is a marked difference in the make-up of the slave population when we compare our earliest with our latest documents. As in Spain, we see changes in the identification of which sorts of people made appropriate household slaves, particularly as traded chattel slaves became a more important factor. By the thirteenth century, unfreedom had become strongly associated with cultural outsiders, with a greater and greater degree of overlap between these two lines of distinction. In regions where such cultural outsiders also constituted a significant proportion of rural tenants, as with Greeks or Muslims in Norman Southern Italy and Sicily, unfree tenancy also seems to have become reserved essentially for them, in the way that chattel slavery was in the rest of Southern Europe.⁹⁰

One still finds more negotiated forms of entry into household service in the eleventh century, but these, tellingly, can show a great deal of effort to keep as much distance as possible from the evolving chattel trade. In a document from 1031, for instance, an Amalfi woman called Gemma sold her little son, still an *infantulus*, to a certain Giovanni Tecapanta, giving the latter the power to order him around 'day and night, far and near, by sea and by land', in exchange for 'feeding and clothing him and providing him with shoes according to reason and as you are able' and 'doing him good'. Although she was transferring him with practically every possible right over his person, she took care to enumerate all these rights one by one, and never to use the word *servus* or the vocabulary of legal status in order to convey this meaning—as one suspects she probably would have done in an earlier time. She even managed to avoid the language of status when she asked for her son to be made 'entirely free' after the death of his buyer, describing a manumission but again without saying the word (she also did not give the buyer the

⁸⁸ Chattel slaves of Sardinian origin: Panero, *Servi, schiavi e villani*, pp. 340–3; see for example *Notai liguri del secolo XII*. IV, no. 265 (15 November 1186); *Notai liguri del secolo XII*. I, no. 164 (20 February 1190) and 208 (2 March 1190); *Notai liguri del secolo XII*. II, vol. 1, no. 739. On Genoese slavery in the twelfth century: Haverkamp, 'Zur Sklaverei in Genua'; Panero, *Servi, schiavi e villani*, pp. 341–5; Epstein, *Speaking of Slavery*, mostly deals with later centuries.

⁸⁹ Panero, *Servi, schiavi e villani*, pp. 343–4. On the gender ratio, the earlier evidence goes against Stuard, 'Ancillary evidence', who posited a continuous preponderance of women as chattel slaves throughout the middle ages; see also Chapter 3, n. 99, and below, pp. 161–5.

⁹⁰ Peri, 'Il villanaggio in Sicilia'; D'Alessandro, 'Servi e liberi', p. 310–11; Corrao, 'Il servo', pp. 75–8; Panero, *Schiavi, servi e villani*, p. 298; however, Nef, 'La Sicile normande est-elle une terre de réduction en servitude généralisée?' emphasizes the heterogeneity and complexity of realities included under the Latin *villanus* by looking at Greek and Arabic documents.

ability to sell him on, and in fact insisted that her son was ‘for him to keep all his life’).⁹¹

In earlier centuries, when traded slaves had been restricted to rather small numbers, as luxury display items more or less reserved for elite households, the key difference between free and unfree household labour had been much less focused on the distinction between tradable and non-tradable, or between outsider and insider. The growth of trade must have contributed to changing the perceived character of unfree household service, by turning it into something ever more unacceptable to anyone who was not being bought in. This may explain the end of the sort of arrangement we saw in Chapter 2, as well as a narrowing of the range of meanings of the category. This did not stop local, Christian people from still making their or their children’s labour available in the households of urban elites under some extraordinarily coercive arrangements; it is only that they were no longer putting their own legal status into play at the same time.⁹² The single category of unfreedom seems to have become gradually less flexible and absorbent as it began to include significant (and highly visible) numbers of household slaves who were outsiders and chattels, whose condition no one wanted to be associated with.

FRANCIA

The uses of unfree status in Francia share many traits with those in Northern Italy, but with a very different trajectory towards the later end of our period. Merovingian-era sources suggest a wide variety of provenances for household slaves. Legal formularies, alongside the models for self-sales, penal enslavement, or debt slavery already discussed in Chapter 2, also contain acts of sale for a purchase price.⁹³ Some of these were from internal sources, as in the case of abandoned babies found at church doors and sold to be raised in-house; these are virtually certain to have ended up as household servants.⁹⁴ One formula of sale describes the buying of a slave at the market (*in mercado*) from a *homo negotians*.⁹⁵

⁹¹ ‘... cunctis diebus bite vestre ...; die ac nocte, longe et prope, per mare et per terram ...; et vos illum nutrire, et vestire, et calzare debeatis iusta ratione et secundum vestram possibilitatem et facere ad eum debeatis benem’: *Codex diplomaticus Cavensis* V, no. 833, pp. 201–2. Compare *Codex diplomaticus Cavensis* III, no. 459 (993), p. 1, for a meticulously exact arrangement from Benevento concerning the labour of a child who was retaining free status: in that earlier period Gemma’s son would almost certainly have simply been unfree, rather than, as here, everything but.

⁹² *Anime* in late medieval Venice are one instance of extremely heavily subjected though putatively ‘free’ servants, who, as children, had their work sold for very long terms of time to a master (and were often in practice treated as slaves): Verlinden, *L’esclavage dans l’Europe médiévale* II, pp. 674–86 and 717–20; Heers, *Esclaves et domestiques*, pp. 153–6; for other types of highly binding arrangements for securing free household service, Klapisch-Zuber, ‘Women servants in Florence’.

⁹³ For self-sale, penal enslavement, and so on in formularies, see Chapter 2, nn. 15, 16, 26, 27, 29.

⁹⁴ *Formulae Andecavenses* 49; *Formulae Tironenses* 11 (Zeumer, *Formulae*).

⁹⁵ *Cartae Senonicae* 9. For other sales of what seem to be household slaves, see *Formulae Andecavenses* 9; *Formulae Salicae Lindenbrogianae* 15; *Formulae Salicae Merkelianae* 12; *Formulae Salicae Bignonianae* 3. This carries on in later formularies, though these contain fewer examples; see notably the contrast made between *mancipia* and *servus empticius* in *Formulae Sangallenses Miscellanae* nos. 22 and 23. Zeumer, *Formulae*.

Some must have been purchased foreign slaves, as with the escaped *servus* 'of pagan origin' (*natione gentile*) in the Angers formulary.⁹⁶ In his will from 616, Bertram of Le Mans also mentioned servants (*famuli*) 'of both Roman and barbarian birth', and envisaged buying boys and girls 'of barbarian origin' (*de gente barbara*) in the future.⁹⁷

Merovingian literary sources also give some grounds to think that household service was often expected to involve an intense personal connection, whether positive or negative. Gregory of Tours's *Histories*, from the late sixth century, contain several very strong portraits of both slaves and masters: Leo the cook, who staged an elaborate rescue mission to recover his aristocratic master's nephew Attalus after the latter had been taken hostage and then enslaved; Andarchius the learned slave, who got too big for his boots, tried to trick his way into an advantageous marriage, and was eventually killed by house slaves unwilling to be ordered about by such a 'rude master' (*rudis dominus*); Gregory's arch-enemy Leudast, who he claims had been born a slave, starting out as a kitchen boy, then rising through the ranks thanks to the support of Queen Marcovefa before eventually becoming a count; Marileif, Chilperic's chief doctor, who had also been born a slave, with close relatives employed as cooks and bakers in the royal kitchens, and who after Chilperic's death was robbed of all 'his horses, gold and silver'; some Saxon slaves who murdered their master, a merchant, in a forest, out of rancour at having often been flogged by him mercilessly; Rauching, the duke who liked to torture his slaves at dinner, and had two of them buried alive.⁹⁸ These examples, involving good and bad slaves and masters both, suggest that slave–master relationships were still seen as a form of human relationship interesting in itself—or at least interesting to Gregory: their stories combine to give the sense of a peculiarly powerful bond, sometimes highly positive (as in the case of Leo), sometimes going too far and leading to the advancement of undeserving slaves, who owed nothing to anyone save their master and behaved accordingly (Andarchius, Leudast); fear also at the vulnerability of out-numbered masters (with the murder of the merchant); and also, in turn, a sense of the extreme vulnerability of slaves at the hands of cruel masters (the merchant again, Rauching) or at those of men other than their master (Marileif). As in the case of Andrew the Fool, the fact that these stories cannot be claimed to have been 'true' does not really detract from their value. The point is that Gregory imagined the slave–master bond as a distinctive type of relationship, with its own range of strengths and liabilities. The early career of the queen Balthild as portrayed in her *Life* is another example: if anything, the probability that she was not in fact low-born, but a high-status captive, makes it even more interesting that her hagiographer chose to focus so intently on building her identity exclusively as that of a slave—once

⁹⁶ *Formulae Andecavenses* 51 (Zeumer, *Formulae*).

⁹⁷ Weidemann, *Das Testament des Bischofs Berthramn*, c. 67, p. 44.

⁹⁸ Leo: Gregory of Tours, *Historiae* III, 15 (on this episode see J. Martínez Pizarro, 'A Brautwerbung variant in Gregory of Tours: Attalus' escape from captivity', *Neophilologus* 62:1 (1978), 109–18); Andarchius: IV, 46; Leudast's career: V, 48; Marileif: VII, 25; Saxon slaves: VII, 46; Rauching: V, 3.

again, presumably, with the design of highlighting her extreme vulnerability, as well as the extreme change in her fortunes according to the divine will.⁹⁹

This sort of imaginative engagement with the theme of slavery, by contrast, is more or less absent from Carolingian-era narratives, which tend to lack reference to unfree people in a household setting. By then, there are few signs of any real literary interest in the master–slave relationship—not even in relationships gone wrong; and there is also very little sense that anything about that relationship was particularly special. Whereas slaves had been very frequent recipients of miracles in Gregory of Tours,¹⁰⁰ Carolingian miracle stories are more likely to feature undifferentiated poor people—rather than, as in Gregory, people who are made interesting partly through being in a position of subjection to an earthly master. An exception is Wandalbert of Prüm's *Miracles of Saint Goar*, which include some examples involving what were clearly household slaves, with some signs of interest in the human quality of their relationship with their master. This may, however, point to special conditions along the Rhine river route: those slaves with the more developed storylines are in fact said to belong to merchants.¹⁰¹ Slaves in general are also virtually absent from Carolingian-era narrative sources involving elite households or the royal palace.

This does not tell us that household servants tended to be of free status instead of being slaves; it is simply that their status is almost never identified. It seems relatively clear nevertheless that some unfree servants could serve as part of military retinues: Charlemagne's *Capitula missorum* of 786 mentions 'those *servi* who, as *honorati*, hold benefices and have special duties, or are *honorati* in vassalage with their lord, and may own horses, arms and a shield and a wooden lance and a short sword'.¹⁰² Some manumission documents, and a few records of gifts, also suggest that unfree servants could be highly valued for their loyalty.¹⁰³ Maginfred, an unfree servant of Charlemagne, was evidently elite enough to be in a position to make a number of gifts of land to major monasteries; it was only after his death that anyone thought to question his right to have made them on his own account.¹⁰⁴ His status only features in the record because his gifts had required subsequent

⁹⁹ Fouracre and Gerberding, *Late Merovingian France*, p. 102.

¹⁰⁰ Gregory of Tours, *Virtutes Martini* I, 40: a crippled slave is left by his owners to live from charity (see also II, 4 and II, 30); II, 58: the wrongful enslavement of a boy when Leudast learns he is a talented tailor; IV, 17: a small slave boy playing a game is blinded and then cured; IV, 21: the slave of a count is crippled and cured. For further examples and discussion, see Chapter 6, pp. 228–9.

¹⁰¹ Wandalbert of Prüm, *Miracles of Saint Goar*: cc. 7, 24, 25, and 28 most likely deal with household slaves—in cc. 24 and 28 they belong to merchants (McCormick, *Origins of the European Economy*, p. 654, n. 64). For a domestic *ancilla* and her mistress, see also Anskar, *Miracula Willehaldi*, c. 3, from c.860 (on c. 29, see below, n. 116).

¹⁰² *Capitularia* I, no. 25, c. 4 (p. 67).

¹⁰³ For personal manumissions, see Chapter 3, p. 100. For a gift of land, *Formulae Marculfi* II, 36 (Zeumer, *Formulae*), admittedly composed in the Merovingian period but still being copied in the ninth and tenth centuries.

¹⁰⁴ *D.Kar.* nos. 198 and 203. Even then, Maginfred's donations may have been being questioned only in light of new priorities in Charlemagne's later legislation: see Innes, 'Charlemagne, justice and written law', p. 173.

confirmation. Unfree status was thus not a complete bar to honourable and trusted service, but it was also clearly not a characteristic anyone wanted to stress routinely in the case of these people—as was also evidently the case in Lombard Italy for the personal bodyguards referred to as *gasindi*, who are equally vaguely categorized. No ‘faithful slave’ *topos* is to be found in the literature of the time, and Carolingian narrative sources do not present unfree dependence as a distinctive basis for personal loyalty to a lord. The only explicit comment on the subject, from the historian Nithard, is very negative: writing during the civil war of the early 840s, Nithard commented that those faithless men who had broken their oaths of allegiance to avoid losing their lands had acted ‘like slaves’ (*more servorum*). The parallel he was making, however, was almost certainly with tenants rather than with household slaves: he presumably had in mind the normal practice, whenever a landed estate changed hands, of automatically transferring any unfree peasants to the new owner along with the holdings they occupied. This was very much not how the loyalty of the free was supposed to work: in their case, at least in Nithard’s view, although loyalty certainly ought to be rewarded with land, it should not be conditional upon it.¹⁰⁵ This does not amount to a ‘bad slave’ stereotype, such as we might meet in Byzantine sources, or such as we might have met in Gregory. Even naming practices contributed to making unfree servants less visible, and their bond with their lord less distinctive: while in the eighth century and early ninth one finds unfree dependants bearing the name of their lord or a closely related variant, the practice seems to have dwindled thereafter.¹⁰⁶

All this suggests that there were only a restricted range of situations where the unfree in elite Carolingian households were worth mentioning as such explicitly. Slavery seems to have become progressively less useful in conceptualizing power and labour relationships within the highest elite Frankish households, which makes the region something of an outlier in comparison with the others studied in this chapter. There are enough instances to suggest it was still there, but it apparently did not play a strong role as part of self-conscious elite display in the way that it did, for instance, in Byzantium, Catalonia, or Ireland. It may well be that the more inescapable the daily experience of subjection (likely to have been at its most extreme in a household context, where power over people was constantly reasserted through daily personal interactions), the less need there was to invoke any precise legal status in order to support it: it simply went without saying who was in charge of whom. Even Gregory of Tours, who, as we saw, cared more than later writers about slavery as a specific type of relationship, had still often referred to both household servants and military retainers as simply *pueri* of indeterminate status.¹⁰⁷ What was important was that they were junior and

¹⁰⁵ Nithard, *Historiarum libri IV*, p. 52. For another deeply negative approach, see Thegan on Archbishop Ebbo of Reims, who had himself been born unfree: Thegan, *Gesta Hludowici Imperatoris*, c. 44.

¹⁰⁶ Staab, *Untersuchungen*, pp. 334–5. Régine Le Jan has linked this to changes in the conceptualization of the aristocratic *familia* as less inclusive of connections with lower-status satellite members: Le Jan, ‘Entre maîtres et dépendants’, pp. 244–6.

¹⁰⁷ James, ‘Childhood and youth in the early middle ages’, p. 16.

relatively powerless members of the household, more than the question of precisely what it was that made them junior.

Mostly servants' status was discussed explicitly only when it created a particular problem: for instance, the fear that Christian household slaves might become converted to Judaism led Agobard, bishop of Lyon, to engage in an extended polemic against Jewish ownership of slaves, thereby turning Jews into the best-documented owners of house slaves in surviving Carolingian source material.¹⁰⁸ Since nothing suggests that Jews had particularly exceptional household arrangements, this could imply that household slavery, by and large, did continue to exist. The fact that rather more evidence for the existence of domestic slavery during the Carolingian period can be found, curiously, at the lower end of the social spectrum, in peasant households, suggests it might be a mistake to underplay its importance in general.¹⁰⁹ In one document, for instance, a man gave five *mancipia* to the monastery of St-Gall in exchange for the freedom of his wife and children; the fact that the latter had been compromised in the first place suggests that this slave-owner was not of high social status.¹¹⁰

Slave women (*ancillae*) are another marginally more visible category: they feature more often than slave men in penitentials, as objects of wrongful sexual behaviour that masters had to atone for; and a number of *ancillae* also feature in manumission documents, often after being engaged in a sexual relationship with their masters, and bearing them children.¹¹¹ The legal status of *ancillae* may also have been more commonly mentioned than that of men in the source material because there was a closer and more permanent connection between women and unfreedom—particularly, as Ruth Mazo Karras has shown, in the case of women living in concubinage.¹¹² 'Woman' and '*ancilla*' were arguably more easily

¹⁰⁸ Agobard of Lyon, 'De insolentia Iudaeorum', p. 192, lines 65–8; Council of Meaux and Paris, a. 845–846, c. 73 (MGH *Concilia* III, no. 11). For earlier wrestling with the problem of Jews owning Christians in Merovingian church councils, see Verlinden, *L'esclavage dans l'Europe médiévale* I, pp. 672–7. On all these objections reflecting household ownership rather than slave trading (though of course it could be both), Toch, 'Was there a Jewish slave trade?'.

¹⁰⁹ Verhulst, *The Carolingian Economy*, p. 31. See for instance Davies, *Small Worlds*, p. 98, on peasants in Brittany as owners of unfree people: this seems to have involved essentially the better off who owned more than one farm and so needed more manpower. In the households of priests: e.g. *Regensburg* no. 81 (Hammer, *A Large-Scale Slave Society*, p. 58): seven named *mancipia* are given by the priest Engilmar: out of them, Zeiza is only to sweep the church and to serve St-Peter 'as she could' (suggesting old age); Asflat is to serve one particular cleric and his brother for the lifetime of the former, and is only then to be included in the transfer.

¹¹⁰ *St-Gall* I, no. 210—though surprise suits over status by St-Gall and other East Frankish institutions did not only happen to the very poorest: see e.g. *Passau* no. 50, *Freising* I, no. 402, *St-Gall* II, nos. 447 and 754; see Chapter 5, n. 65.

¹¹¹ Penitentials: Morabito, 'Signes médiévaux de survie de l'esclavage antique', pp. 268, 278–9, 282. For manumissions, see Chapter 3, nn. 73, 78–84, 96 and 100, and n. 99 on the implications for Stuard's thesis in 'Ancillary evidence'. *Cartae Senonicae* 42 show how a man might free his daughter by his *ancilla* and make her his heir (Zeumer, *Formulae*). See also *Regensburg* no. 93 and *Freising* I, no. 634, pp. 538–40; for more examples from Bavaria down to the eleventh century: e.g. *Tegernsee* nos. 22, 23, 35, 118, 701; *Freising* II, no. 1434 (p. 288). On the subject generally, see Hammer, 'The handmaid's tale'.

¹¹² Karras, 'Desire, descendants, and dominance'; Karras, 'Concubinage and slavery in the Viking Age'; Karras, 'Servitude and sexuality in medieval Iceland'. For the treatment of female slaves set up in

assimilated and overlapping concepts, since (unlike 'man' and 'servus') both conveyed a sense of low power, and so involved no inherent sense of tension or contradiction. This higher visibility of women in a domestic context might be taken to support Susan Mosher Stuard's argument that women remained slaves while men had turned into serfs, taking them as her key bridge point between the slave women of late antiquity and the slave women of the later middle ages.¹¹³ The case of *ancillae*, however, in fact points to some very new developments in the ways great lords obtained household service, rather than simply to women experiencing fundamental continuity in the meaning of unfreedom while men experienced discontinuity.

Superficially, the *ancillae* working at estate centres in textile workshops (*gynaecium* or *genitium*) look like the best documented case for employment in direct household service.¹¹⁴ They were also often connected at the time with sexual availability and licentiousness, a frequent characteristic of female slaves in other times and places.¹¹⁵ Many of these women, though, seem to have been drawn from unfree tenant families, and returned to such tenancies later in life. Sometimes this is made clear from surviving narrative sources, though detail there is rare.¹¹⁶ As Devroey has argued, mobility between tenancies and estate centre would also explain the striking gender imbalance found among tenants in most of the polyptychs (ninth-century estate surveys, dealing with the property of large monastic houses, and often containing remarkably rich information on the inhabitants of tenancies). Polyptychs typically list far more men than women living on tenant farms. Some of the missing women can be accounted for elsewhere, for instance, among lists of tenants who had moved away from their original place of residence.¹¹⁷

opposition to the proper treatment of a wife, see e.g. *Formulae Sangallenses miscellanea* no. 12, p. 385 (Zeumer, *Formulae*); Obermeier, *Ancilla*, p. 70.

¹¹³ Stuard, 'Ancillary evidence', pp. 14–15.

¹¹⁴ Stuard, 'Ancillary evidence', pp. 14–15; Devroey, 'Men and women'; Kuchenbuch, 'Opus femineile'; Herlihy, *Opera muliebria*, pp. 78–91, noting examples of *genitium* workers with unambiguously unfree status: the *Charta Eberhardi* in the *Polyptych of St-Germain*, I, 621 (about forty women in the *genitium*); *Freising* I, no. 450, p. 385; *Freising* I, no. 1045 (13 September 908), p. 788: exchange including twelve *ancillae de genetio*; *Salzburg*, nos. 245–246 (1050): Count Chadalhoh and his wife Irmingard give estates 'cum geniceo uno et cum omni familia, servis videlicet et ancillis tam curtilibus quam villanis'. An Italian document from 895 shows Nonantola sending every year twelve weaving women (*ancillas nostras*) to the monastery of San Michele Arcangelo in Florence, to make woollen and linen shirts: Tiraboschi, *Storia dell'augusta Badia di S. Silvestro di Nonantola*, vol. 2, no. 53, pp. 69–71 ('ibidem in ipso monasterio recipere debeatis ancillas nostras duodecim ad opera nostra faciendum de lana et lino'). For more on Italy: Andreolli, 'Tra podere e gineceo'. On *ancillae* in general in Frankish sources, see also Obermeier, *Ancilla*.

¹¹⁵ See n. 122 below.

¹¹⁶ For instance, Anskar, *Miracula Willehaldi*, c. 29, tells the story of an *ancilla* who did textile work at the house of a count along with others: after being cured by the saint, she was freed and went back to her father, who looks like a tenant of the count's (p. 389).

¹¹⁷ For instance, the St-Rémi polyptych counts 156 men for every hundred women altogether, but the ratio drops, conversely, to eighty-two men for every hundred women when it comes to those who had moved away from their original place of residence (*foranei*). Mobility between estates seems to have been especially common for supernumerary and single women, who often moved towards the smallest and most marginal tenures of an estate, but also of women who moved to a different estate in order to get married, or who left the lands of the institution altogether (even in the latter case, they still owed some dues as a result of their point of origin, which is why their dependence was still

The gap, however, remains striking, and particularly among unfree tenants: the farms of tenant *servi* on the estates of St-Germain-des-Prés have a gender ratio of 266 men for every hundred women, an exceptionally wide discrepancy.¹¹⁸ The rest of these missing women, then, may well have been working in a textile workshop at the estate centre, and so outside the remit of the polyptychs. They may also have been employed in the more general position of household servant. The use of women drawn from tenancies for domestic service is attested in the case of an unnamed woman whose family, along with its lands, was claimed by an agent (*missus*) of Charlemagne as belonging to the fiscal estate of Andernach. The woman ended up a *verna* (an unfree domestic servant) of the empress Judith, and served her so well that Judith agreed to intercede with Louis the Pious on her behalf. Her equally unfree brother, who was given back his freedom at the same time, looks like he had been simply living as a tenant on the same land which was now being restored to them both as their property.¹¹⁹

Even *ancillae* in a sexual relationship with their master cannot necessarily be counted as clear examples of chattel slavery: the manumission document for Doda, the emperor Lothar's mistress, makes clear that her father Ratbert had held a *mansus*, which even had some *mancipia* on it (she was granted the *mansus* at the same time as being freed).¹²⁰ The temporary employment of young, unmarried unfree women within the lord's household would in itself have given that lord plenty of opportunities for sexual encounters with his unfree dependants, without recourse to specialized chattel slavery.¹²¹ This may also explain why textile workshops were generally regarded as dens of vice.¹²² For some of these women, the movement from tenancy to household may have been definitive; in other cases it may have corresponded only to a particular phase in the life-cycle, before marrying and re-joining the ranks of tenants.¹²³

Nor were *ancillae* the only ones engaged in this sort of mobility between tenancies and estate centre. It can often be difficult in polyptychs to tell the difference

recorded in the polyptych). Devroey, 'Femmes au miroir des polyptyques', pp. 238–43; Devroey, 'Men and women': 'Mobility seems to be characteristic of women' (p. 20). Emily Coleman once suggested infanticide as an explanation ('L'infanticide dans le haut Moyen Âge'), but Devroey has noted that whenever information on age is given, the discrepancy between sexes does not seem to affect children, but mostly the young unmarried or adults: Devroey, 'Femmes au miroir des polyptyques', p. 239.

¹¹⁸ Herlihy, *Opera muliebria*, p. 86; Devroey, 'Femmes au miroir des polyptyques', p. 243.

¹¹⁹ *Formulae Imperiales* no. 51 (Zeumer, *Formulae*). Her family had managed to recover their freedom in the meantime, but her name as well as that of her brother had apparently been left out of the original decision.

¹²⁰ *D. Lothar I* 113 (851). We are certainly dealing with a household servant, though, in *Regensburg* no. 93; for other examples, see above, n. 111.

¹²¹ For an example of a love affair, subsequently leading to marriage, between a free man and an *ancilla* who seems to have originally belonged to a textile workshop of Freising: *Freising I*, no. 450, pp. 385–6; Herlihy, *Opera muliebria*, p. 85; Hammer, 'The handmaid's tale', p. 367, n. 32.

¹²² Herlihy, *Opera muliebria*, pp. 78–91; Notker, *Gesta Karoli II*, 4 (p. 52); *Capitularia I*, no. 32, c. 49 (*Capitulare de villis*, on the need to enclose women's quarters with sturdy walls and doors).

¹²³ *St-Gall I*, no. 228 (817), p. 220, distinguishes between *servi vel ancillae coniugati et in mansis manentes* and *puellae infra salam*, suggesting the difference was more one of age (as Devroey notes, 'Men and women', p. 24; also Obermeier, *Ancilla*, p. 94). Feller, *Les Abruzzes*, p. 532, suggests that the sending of young women to the estate's textile workshop may have corresponded to a deliberate strategy to delay marriage. See also Hammer, *A Large-Scale Slave Society*, p. 28; Hammer, 'Family and

between household slaves belonging to tenants on the one hand, and members of these tenants' families on the other. In some cases the list of people living in tenant households included domestic slaves (we have already seen a few examples of this from Lombard Italy).¹²⁴ Some of these may, for all we know, have belonged to the tenants in their own right; others could have been assigned by the lord to help with farm work. Allocating extra workers in this way allowed lords to achieve greater flexibility in the distribution of manpower on the tenant farms from which they drew both revenue and labour (see Chapter 5).¹²⁵ Additional help of this sort might be required, for instance, to make up for a lack of children, or if adult children had already been deployed elsewhere. Although these more moveable unfree farmhands may have represented something of an initial outlay if they had been purchased (although, as we have seen, they could be obtained in other, presumably cheaper ways as well, such as self-sale or penal enslavement), the costs of upkeep were, from that point on, offloaded onto the tenants in whose households they were settled. It is perfectly possible that, in time, many of these people could hope eventually to be settled in turn on their own farm, like the descendants of two women mentioned as having been bought by St-Rémi of Reims, whose grandchildren had become relatively independent tenants (so much so, in fact, that they claimed to have been born free).¹²⁶

Kuchenbuch has identified very large numbers of non-tenant *mancipia* who were expected to be found living on other people's tenancies in the 893 polyptych describing the estates of Prüm: all put together, about 440 *mancipia* among about 1,750 farming units (manses). Most often, the polyptych simply noted that the tenants were supposed to make available one *mancipium* every now and then, at times of high demand for agricultural work on the monastery's directly exploited

familia', arguing that the sex ratio on the estate of Lauterbach in Bavaria suggests a movement of dependants between tenancy and demesne, and between the roles of unfree household or farm worker and unfree tenant (also p. 232–3 on mobility between estates, notably for marriage; p. 246 on teenagers, and perhaps old people as well, being placed on the demesne). See Chapter 6, pp. 237–8.

¹²⁴ For Lombard examples, see above, nn. 78, 79, and 80.

¹²⁵ In estate surveys, there are frequent instances where unfree people seem to be living on a farm without being apparently related to the head of the household: e.g. Provence: *Polyptych of Wadaldus*; Faith, 'Farms and families', p. 193. Bavaria: *Regensburg* no. 17, an estate survey, includes *mancipia* assigned to unfree tenants; Hammer, 'Family and familia', p. 222 (see also *Freising* I, no. 86, in which a *servus* is assigned to a colonus's *colonia*). Further examples from documents: *Wissembourg* nos. 71 and 73 (774 and 775 × 776): the *mancipia* Widilo and his wife Gisa are listed '*cum suis mancipiis duobus*' (Staab, *Untersuchungen*, p. 344, n. 242, is surely correct to reject reading these as their children); *Hersfeld* no. 35 (835 × 863): the childless tenants Gerwin and his wife Tangu, *servi* (or *liti*, it is unclear which—on *lidus* see Chapter 5, p. 192), are listed as having three *mancipia*; for examples from Prüm see n. 129 below; see also *D. Lothar I* no. 113 (851), above, p. 162. From formularies: *Formulae Salicae Lindenbrogianae* 9; *coloni* owning *servi*; *Formulae Senonenses recentiores* 3 and 6 (in 6 the *colonus* is said to have bought the *servus* himself, though his lord retained the act of sale); Zeumer, *Formulae*; on these see Rio, 'Freedom and unfreedom', pp. 23–7. See also *Capitularia* I, no. 77, c. 5: *vicarii* and *centenarii* should not buy *mancipia* from the *servi* of the king (that is, they should not buy members of the workforce from royal estates from people who have no right to sell them); for a *servus* owning an *ancilla*, and sexual service: *Capitularia* I, no. 16, c. 7.

¹²⁶ Devroey, 'Libres et non-libres sur les terres de Saint-Rémi', p. 102; Barbier, 'Hincmar, the polyptych of St-Rémi and the slaves of Courtisols'.

lands.¹²⁷ The meaning of this demand is made more ambiguous in those cases where the tenants themselves were also unfree: as Kuchenbuch rightly notes, in these cases it can be difficult to tell apart unfree servants who had been assigned to the household by the abbey, or who were owned by tenants in their own right, from the children of unfree tenants or their other family members. Etienne Renard has argued that the *mancipia* who had to be supplied in this way were simply the tenants themselves, who were being asked to make one or two of their number available to the abbey.¹²⁸ It makes sense, given the large numbers involved, to account for many—perhaps most—of these *mancipia* in this way, but some other contemporary documents also make it absolutely clear that unfree farmhands serving in tenant households did exist on Prüm estates, as when unfree tenant couples are listed together with ‘their’ *mancipia*, listed separately from their children or family members.¹²⁹ There is no need to choose between them: people belonging to any and all of these categories may have been expected to pitch in and make up the workforce that had to be supplied from tenancies, depending on who was available at any given time. After all, it made little difference to the abbey which kind of *mancipium* it was that was helping out with its harvest.

The strong potential for confusion between unfree farmhands living in tenants’ households and the tenants themselves (and particularly junior members of their immediate family group) partly stems from the absence of any formal juridical distinction between them. Some of them could be referred to as *mancipia* and some as *servi*, but this was not done because of any sense of a terminological hierarchy between different kinds of unfree people: Fulda documents show the absence of any such formal distinction by listing, in different documents, *mancipia* owning other *mancipia*, *mancipia* owning *servi*, and *servi* owning *mancipia*.¹³⁰ If anything, it may have been all the more important to stress that tenants were just as unfree as their farmhands, without any sense of legal distinction, since that could only help to assert the lord’s own direct claims over their labour and any property found in their hands.

A move between tenancies and estate centre could be permanent, and, when going in the direction of the estate centre, it was clearly understood as a demotion. For instance, some of the *censuales* from Freising were threatened, if they repeatedly failed to pay the *census* they owed, with being claimed as prebendaries of the altar (*servi prebendarii*, that is, full-time, directly exploited unfree workers without a holding):¹³¹ in their case, direct exploitation was built in as a potential penalty.

¹²⁷ *Prümer Urbar* (= Beyer, *Urkundenbuch* no. 135, pp. 142–201), cc. 6, 8, 22, 23, 25, 30, 31, 32, 55, 90, 104, 113, 114, 115, 116, 117: one or two *mancipia* to be supplied for the hay and/or wheat harvests, and sometimes also the wine harvest. In c. 20, the tenant is offered the alternative of performing labour duties himself for a further fifteen days and nights instead of supplying a *mancipium*.

¹²⁸ Renard, ‘Les *mancipia* carolingiens étaient-ils des esclaves?’, pp. 200–1.

¹²⁹ Kuchenbuch, *Bäuerliche Gesellschaft*, pp. 78–9. E.g. Beyer, *Urkundenbuch* no. 58 (826), at p. 66: one unfree tenant couple is listed with its four children and three *mancipia*, and another couple with their *vernaculus*; also no. 81 (951). Elsewhere, see also above, nn. 120 and 125.

¹³⁰ *Fulda* no. 179 (803): a couple designated as *mancipia* are given together with their children and one *servus*; no. 144 (797): a *servus* owning four *mancipia*; no. 534 (841): the *mancipia* Leobman and his wife are given along with their own *mancipia*. On *mancipium* as a highly flexible term: Renard, ‘Les *mancipia* carolingiens’, pp. 192–3.

¹³¹ *Freising* II, no. 1315 (*liber censualium*).

In other cases such mobility could be simply temporary, and those involved allowed to return to a tenancy after a few years in household service. The difference between people who look to us more like household slaves and those who look more like tenants might then depend a great deal on their particular individual biography, or when in their life-cycle we happen to find out about them, rather than reflecting any more fundamental division.

This kind of mobility seems to have affected above all the most vulnerable and most marginal members of a community of tenants (the young and unmarried, especially women before marriage, whose brothers might well have remained on the family farm, or women in widowhood). Devroey has rightly emphasized that this level of difference in the experience of life of unfree tenants in Carolingian Francia calls into question the centrality of the distinction between *servi casati* (tenants) and *servi non casati* (unfree people without a tenure, or prebendaries). In other words, mobility between tenancy and estate centre was likely, even more than domestic slavery, to intensify what one might call issues of intersectionality—in which unfree status was only one variable, which took on a more precise meaning only when put in relation with others, such as age, gender, or social weakness.¹³² This, not Stuard's distinction between male 'serfs' and female chattel slaves, is what makes unfree women look so much worse off than unfree men for this period. If anything, when we are dealing with household chattel slavery, without any link to tenancies, as we frequently do in other regions of Europe, the gender balance tends to look much more even.

These other forms of inequality do not negate the importance of unfree status: if anything, the fact that one reading of unfreedom might well turn into another, depending on the personal circumstances of the dependant and the needs and scope for action of the lord, could help to explain why all these very different types of people, with such different experiences of life, were worth keeping under the same legal banner. A middle-aged, married male tenant might well experience more or less the same conditions of life whether he was free or unfree; but the same was not necessarily true of his unmarried daughter, and this must have played a part in motivating lords to continue to make claims of unfree status over their tenants.

The apparently diminishing relevance of household chattel slavery to Frankish lords' displays of power need not, of course, have occurred everywhere, and one should reckon with regional diversity. Frontier regions might well offer a different impression. Generally, though, in East Francia/Germany too one finds ever scarcer evidence for chattel slavery from the later ninth to eleventh centuries onwards. This may seem surprising in view of Charles Verlinden's argument, now widely accepted, that it was in tenth- and eleventh-century Germany that the Latin word for 'Slav' first became synonymous with 'slave'. Verlinden's evidence, however, chiefly consists of examples of the taking of captives from narrative sources,¹³³ and

¹³² See especially Devroey, 'Men and women', pp. 27–8.

¹³³ The best example is Henry I in 929: Widukind of Corvey, *Res Gestae Saxonicae*, c. 35 (p. 50), after taking the fortress called Gana ('puberes omnes interfecti, pueri ac puellae captivitati servatae'); also c. 36 (p. 54), after the siege of Lenzen, taking all of the servants of the king of the Redarii who had a *servilis conditio*; referring to the same siege, *Annales Corbeienses* s.a. 929 (p. 4), describing a

also of trading in slaves (and additionally some evidence for trading by Jews, taken as an indirect indication of potential slave trading—an argument with questionable merit).¹³⁴ Slavic slaves did wind up in Mediterranean regions, so there must have been some slave trading going on. It is far more difficult, however, to find any sign that Slavs were routinely used as chattel slaves by East Frankish and, later, German lords. When *sclavi* are mentioned as part of donations in diplomas of East Frankish and Ottonian kings, they invariably appear settled on land.¹³⁵ Because they are included in donations and appear alongside other status categories like *lidi* or *mancipia*, these have been thought to be slaves or captives,¹³⁶ and thus to constitute the first instances of the use of *sclavus* to mean ‘slave’; but they could perfectly well have been voluntary migrants falling under a special sort of arrangement—like the Slavs who, in 791, after having engaged in a bit of impromptu land-clearing and settled, became similarly included in a diploma of Charlemagne’s, despite evidently not being counted as unfree (they simply had to agree to do some service for the church whose land this was if they wanted to continue to farm it).¹³⁷ Interpreting them as a separate legal category simply because they appear listed alongside *servi* or *mancipia* would only be warranted if we could be quite certain that medieval scribes would only have included similar kinds of thing as part of any single list, which of course is a forlorn hope.¹³⁸

The equivalence between *sclavus* and ‘slave’ in central medieval Germany, then, seems on the whole pretty doubtful (and Verlinden himself disarmingly admitted in a footnote that he could not support his argument through textual sources).¹³⁹

‘pugna valida...contra Sclavos’ in which 120,000 of the enemy died (!) and 800 were taken captive. On the enslavement of women and children: Gillingham, ‘Women, children and the profits of war’.

¹³⁴ The examples where Jewish merchants are actually buying *mancipia* are in fact fairly rare (Verlinden, *L’esclavage dans l’Europe médiévale* I, p. 124): in the *Vita S. Adalberti episcopi*, c. 12 (p. 586), Adalbert redeems some Christian slaves who were being traded by Jews; the episode follows an elaborate passage about his desire to free the people from servitude to demons and vices, and clearly the slaves here were part of same symbolic point. Apart from that, there is just Thietmar of Merseburg, *Chronicon* VI, 54 (p. 340), showing Gunzelin selling some *familiae* to Jewish merchants around 1009; but Gunzelin was being stitched up and accused on other, more important grounds, and this may just have been added to the heap to damage his reputation (either way, there is no evidence of any link-up with raiding here, since it is a simple case of wrongful enslavement, which selling to Jews only made more wrongful in the eyes of the narrator; it is not completely clear what the original status of the *familiae* would have been).

¹³⁵ The earliest document to feature ‘Slav’ alongside words that indicate status is a diploma of Louis the German: *D.LD* no. 80 (857), p. 117 (‘homines ipsius monasterii tam ing[e]nuos quam servos Sclavos et accolas super terram ipsius commanentes’), as noted by Reuter, ‘Plunder and tribute’, p. 249, n. 92. Later: *D.Arnolf* no. 66 (889), p. 99; *D.Konrad I* no. 34 (918), p. 31; *D.Heinrich I* no. 7 (923), p. 45; disposing of families of Slavs: *D.Otto I* no. 1 (936), p. 89; no. 14 (937), p. 101; no. 16 (937), p. 104; no. 18 (937), p. 106; no. 21 (939), p. 109.

¹³⁶ Verlinden, ‘L’origine de *sclavus* = *esclave*’, pp. 122–3; Bondue, *De *servus* à *sclavus**, makes his whole periodization dependent on the appearance of the term in these diplomas (though strangely not using the earliest datable instance; see n. 135 above). On *lidi*, see Chapter 5, p. 192.

¹³⁷ *D.Kar.* no. 169 (p. 227). Hammer, *A Large-Scale Society*, p. 24, thinks this service had to be unfree, since their other choice was to ‘depart as free men’, but there is no reason to think they would have lost their freedom either way.

¹³⁸ *Accola*, with which *sclavus* is also sometimes paired, for instance, is not really a legal status term either.

¹³⁹ Verlinden, ‘L’origine de *sclavus* = *esclave*’, p. 125, n. 2: ‘il m’est toutefois impossible jusqu’à présent de le prouver par des textes.’

There is not a single instance where the word clearly bears a status, rather than an ethnic, value. In any case, these uses would not support the idea that it would have replaced *servus* as the preferred word to refer to chattel slavery as opposed to serfdom, since we are here very explicitly dealing with dependent tenants.¹⁴⁰ Even were they to have been raided slaves in the first place, they evidently did not feed into a household slavery niche. This suggests there was very little demand there to be met, perhaps because, here as in West Francia, free followers were privileged as a source of honour within the elite household. Of course, none of this is to say that Slavs did not constitute an important item of trade, but this was not necessarily directly related to German kings' own military activities: as I argued in Chapter 1, they could well have fed into the Mediterranean trade through other routes—notably through the Western Balkans and the Adriatic coast, where slave-taking seems to have been a remarkably continuous activity.¹⁴¹

References to slave trading in the South are similarly rare: Muslim captives do make an appearance every now and again, mostly in later sources (in the early eleventh century, for instance, Adémar of Chabannes recalled twenty 'Moors' of Cordoba who had been captured by the men of Narbonne and sent as a gift to St-Martial of Limoges),¹⁴² but this sort of occasional windfall from military victory clearly did not yield anything on the scale found in Spain. A commercial trade in foreign slaves would not pick up again in Provence and the South-West until the thirteenth century, and that chiefly on the coast.¹⁴³

Even on the frontiers of the Empire, then, the evidence for extensive slave-taking is underwhelming from the Carolingian period to the end of the central middle ages. At the level of the peasant household, there is every reason to think that household slavery on a small scale, involving a few extra farmhands, persisted—as there are hints it did elsewhere in Europe. What we are missing for this region, surprisingly, is what we found in nearly every other so far: that is, ownership of household slaves as an important symbol of elite identity.

ANGLO-SAXON ENGLAND

As in Ireland, there is every reason to think that slave-taking, at least in earlier Anglo-Saxon England, took place regularly.¹⁴⁴ It is much harder to see what the resulting slaves would have done on a daily basis: had the thegn Imma been more successful in disguising his elite identity, what exactly would he have done in practice

¹⁴⁰ On instances of central medieval raiding for people as chiefly intended to obtain agricultural manpower, rather than domestic slaves or feeding into an overseas trade: Bartlett, *The Making of Europe*, pp. 118–20. On raiding in Ottonian Germany, see Keller, 'Pillage et pouvoirs aux marges orientales de la Germanie ottonienne'.

¹⁴¹ As argued in Evans, 'Slave coast of Europe'; Stuard, 'Ancillary evidence', pp. 16–17; Budak, 'L'esclavage en Dalmatie et Croatie'.

¹⁴² Adémar of Chabannes, *Chronicon* III, 52.

¹⁴³ On which see Verlinden, *L'esclavage dans l'Europe médiévale* I, pp. 748–833. See also Winer, *Women, Wealth, and Community in Perpignan*, pp. 133–58.

¹⁴⁴ Pelteret, 'Slave raiding and slave trading'; Wyatt, *Slaves and Warriors*; Chapter 1, p. 29.

in his captor's household?¹⁴⁵ References to slaves are rarely very specific about their functions, but there is still enough to see that slavery remained highly relevant to household arrangements well into the tenth and eleventh centuries.

The late tenth-century *Miracles of Saint Swithun* by Lantfred include quite a few stories in which the saint gave his help to domestic slaves. All are depicted with a relatively strong personal link, positive or negative, with their master, and they are usually saved by Swithun from excessive punishment. For instance: the slave girl (*ancillula*) of a bell-founder, who clearly lived in the same house as he did and was due to be severely punished by her master for a small undisclosed transgression, is delivered from her shackles by Saint Swithun. A slave girl (*servula*), stolen from her original master in the North, brought to Winchester by traders, and shackled by her awful new mistress to keep her from contacting her former master, is also rescued by Swithun. A merchant named Flodoald manages to enlist Swithun's help in order to stop his slave (*famulus/mancipium*) from failing an ordeal of hot iron and being executed by a vindictive reeve. The master is described as desperate to save his slave, and the reason he gives, surprisingly is that he would be unable to bear the shame of seeing his slave executed for a trivial offence. This implies that he felt a real risk of dishonour in revealing himself to be incapable of providing protection for his unfree man—suggesting not only a personal connection, but also one of responsibility not unlike that normally afforded to free followers. The slave, on the other hand, also seems like quite a special case, in that he is said to have kinsmen in a position to promise 'immense gifts' (*ingentia donaria*) to the reeve, albeit to no avail.¹⁴⁶ A comparison of the stories of the stolen slave girl and of the man threatened with execution suggests quite a wide spectrum: the former traded in from the North, the latter evidently a local; the former very lowly and vulnerable, the other quite a big fish, at least within his master's household. Wulfstan of Winchester, in a verse rendition written some twenty years after the original prose account by Lantfred, offers an additional contrast between them by providing extra detail about the social status of their owners: the slave girl's former master had been a 'plebeian' (*plebeius*, translated by Michael Lapidge as *ceorl*, the lowest rank of free man), whereas Flodoald, despite being a merchant, is referred to as 'noble' (*nobilis*).¹⁴⁷

Lantfred and Wulfstan of Winchester had a reason for mentioning explicitly whether the people they discussed were slaves or not, since slaves, much more than

¹⁴⁵ On Imma, see Chapter 1, n. 5.

¹⁴⁶ There are two versions for all these stories: a prose account of Swithun's miracles composed by Lantfred (a monk of Fleury who had moved to Winchester), written a few years after the translation of Swithun's relics by Aethelwold in 971; and a verse rendition with additions composed some twenty years later by Wulfstan of Winchester, also known as Wulfstan the Cantor. Both texts are edited and translated in Lapidge, *The Cult of Saint Swithun*. For the passages in question: Lantfred, *Translatio et miracula S. Swithuni* 6 (= Wulfstan, *Narratio metrica de S. Swithuno* I, 9, ll. 1171–201); 20 (= Wulfstan II, 2, ll. 78–204); 25 (= Wulfstan II, 8, ll. 299–434). For two more slaves escaping punishment: 38 (= Wulfstan II, 21, ll. 1123–46); 39 (= Wulfstan II, 22, ll. 1147–66). See Pelteret, *Slavery in Early Mediaeval England*, pp. 57–9.

¹⁴⁷ Wulfstan of Winchester II, 2, line 78, at p. 496–7, and II, 8, ll. 299, at pp. 508–9, from Lantfred cc. 20 and 25. Lapidge, *The Cult of Saint Swithun*.

anyone else, were potentially liable to arbitrary or exceptionally cruel human punishment from which the saint could save them. This also allowed them to be both in extreme jeopardy and still innocent of any serious crime, since the texts nearly always insist that they were being threatened with a disproportionately harsh punishment in view of the offence. Perhaps the audience would have been less likely to respond to a saint who saved from punishment slaves whom they felt deserved it. This may be why the precise nature of the offence is by and large never mentioned—we are just assured that it was insignificant.¹⁴⁸

By contrast, household slaves are surprisingly difficult to identify in the documentary record. One might have expected Anglo-Saxon wills to constitute a prime source of evidence for them, since they contain so many manumissions; but expressions of personal feelings or references to personal service are relatively rare. Leofgifu's will does mention that the slaves of her household were to be freed as well as those on her estates (*on hirde and on tune*), but otherwise the wills contain remarkably few unambiguous references to household slaves: servants do appear, and sometimes have a few leftover items from the will bequeathed to them, but their status is usually left unclear.¹⁴⁹ Perhaps in very elite households of this type, as in Francia, precise status did not seem so important unless one was making a manumission.

Nevertheless, unlike in Francia, household slaves remained potentially powerful symbolically. One of the richest sources from the point of view of a more imaginative engagement with slavery is Wulfstan's *Sermo Lupi*. We have already seen what it has to say about the wrongful enslavement of innocents.¹⁵⁰ In another section, Wulfstan discusses the inverse problem of slaves behaving too much like free men by rebelling against their masters and going off to join the Vikings:

And lo! how can greater shame befall men through God's anger than often does us for our own deserts? Though any slave runs away from his master and, deserting Christianity, becomes a Viking, and after that it comes about that a conflict takes place between thegn and slave, if the slave slays the thegn, no wergild is paid to any of his kindred; but if the thegn slays the slave whom he owned before, he shall pay the price of a thegn... Things have not gone well now for a long time at home or abroad, but there has been devastation and persecution in every district again and again, and the English have been for a long time now completely defeated and too greatly disheartened through God's anger; and the pirates so strong with God's consent that often in battle one puts to flight ten, and sometimes less, sometimes more, all because of our sins. And often ten or a dozen, one after another, insult disgracefully the thegn's wife, and sometimes his daughter or near kinswoman, whilst he looks on, who considered himself brave and mighty and stout enough before that happened. And often a slave

¹⁴⁸ If so, this would be an unusual concern: in most Continental stories of this kind narrators show no interest in whether slaves being rescued by saints had been guilty or innocent.

¹⁴⁹ Leofgifu: Whitelock, *Anglo-Saxon Wills* no. 29. Aethelgifu's will mentions generic household servants to whom surplus is to be distributed, but it is unclear what their status was: Whitelock, *The Will of Aethelgifu*, line 19 (p. 8) and line 49 (p. 12). The same goes for the household servants to whom Wulfwaru left a band of twenty gold mancuses (for the men) and a 'good chest well decorated' (for the women) (Whitelock, *Anglo-Saxon Wills* no. 21).

¹⁵⁰ See Chapter 1, p. 31 and Chapter 2, p. 67.

binds very fast the thegn who previously was his master and makes him into a slave through God's anger...¹⁵¹

In a later work, Wulfstan explained the grounds on which dramatic examples of social promotion, including the manumission of slaves, could count as legitimate: that is, only insofar as it was granted by a social superior, or, best of all, by God.¹⁵² What he describes in this passage of the *Sermo Lupi* is an inversion of all right and proper hierarchies. The sentence in which Wulfstan suggests to thegns that unless they reform their ways, their slaves will run away, join Vikings, and come back to rape their wife and daughter in front of them before taking them captive, plays on fears of the 'domestic enemy' widespread in slave societies, and a consciousness of intense vulnerability to one's own slaves—not only because slaves had the potential to be resentful and hostile, but also because of the sheer enormity of the shame involved in suffering and being humiliated at their hands. A scene of this kind takes on its full meaning in a context where household slavery was still understood as a highly personal relationship, dependent on trust, and therefore also tinged with the fear of betrayal. It is doubtful whether a scene of this kind would have occurred to a Frankish author. At any rate, there is a clear contrast between the kind of unfree people envisaged in Wulfstan's *Sermo Lupi* (known personally to their owners, capable of rebellious feeling and of acting on them, filled with possibilities of betrayal) and the kind of unfree people imagined in Abbo of St-Germain's *Sermo ad milites*—which had similarly dealt with Viking depredations, and which Wulfstan is known to have read.¹⁵³ Abbo, in his own sermon, had only envisaged unfree people as generic rural workers, left dead or taken captives, and their productive force lost. Wulfstan, clearly working with the possibility of a much more intense personal connection between master and slave, was able to do a lot more with his slaves, and to invest them with a much greater potential for drama.

The *Sermo Lupi* suggests that slavery in early eleventh-century England still retained a high emotional and symbolic impact, at least within the elite household. The *Miracles of Saint Swithun*, with their urban context, recalling the world of the Exeter manumissions,¹⁵⁴ also give us glimpses of masters who were not necessarily at the very top of the social scale. It is harder to tell whether slavery played any role

¹⁵¹ Transl. Whitelock, *English Historical Documents*, no. 240, pp. 928–34.

¹⁵² Jost, *Institutes of Polity, Civil and Ecclesiastical*, nos. 135–41, with references to slaves at nos. 135 and 137 (pp. 256–7). This text features only in Cambridge, Corpus Christi College 201, at p. 130, as an alternative ending to a fragment from II *Polity*, 'Be Sacerdan'. For an English translation of the two passages in question, Pelteret, *Slavery in Early Mediaeval England*, p. 94.

¹⁵³ Edited text, translation and comparison in Cross and Brown, 'Literary impetus for Wulfstan's *Sermo Lupi*', at p. 281; Pelteret, *Slavery in Early Mediaeval England*, p. 96. The differences are substantial enough that it cannot really be counted a source for the *Sermo Lupi* (Orchard, 'Crying wolf: oral style and the *Sermones Lupi*', p. 240), but the contrast in the kinds of unfree people the two sermons are most concerned with is still worth noting.

¹⁵⁴ See Chapter 3, pp. 122–4.

in the peasant household; it is generally thought to have existed there too,¹⁵⁵ but that setting is much less well documented.

Domesday Book contains some possible hints that, in late Anglo-Saxon England as on the Continent, household slaves might have been assigned to tenant farms as a means of gaining greater flexibility in allocating manpower. Moore has noted divergent practices among the 1086 entries as to whether slaves were listed as part of the demesne (the part of the estate exploited directly by the lord) or among manorial tenants instead: while the Exchequer scribe seems to have listed *servi* as part of the demesne by default, the Exon Domesday scribe tends to list them among manorial tenants.¹⁵⁶ Some entries for Devon in the Exon Domesday suggest that a few of the unfree people listed among manorial farms were tenants themselves. In other instances, though, including in entries for other counties, unfree workers can feature attached to manorial tenants: these may well represent slaves sent by lords to live in tenants' households, as additional farmhands. Certain oddities in the distribution of slaves in the Domesday evidence may well reflect genuine ambiguities in practice. If these *servi* were expected to contribute labour both on the demesne (regularly) and as part of a tenant's household (*ad hoc*), this would have made them worth listing, but it would not have been self-evident exactly where to list them. Which section *servi* ended up being listed in may not reflect their place of habitation so much as what proportion of their time was earmarked for the cultivation of the demesne, and how much for the tenant's household (or it may reflect the vagaries of commissioners' fact-finding exercises, or sometimes even just the preference of the scribe). Some Domesday commissioners may have opted not to include *servi* housed in tenants' households at all. This might explain, for instance, the implausibly low number of slaves given for several counties in the 1086 survey, especially on Circuit VI, and above all for estates with large demesnes—to the point where the figures as they stand would imply a very large number of missing ploughmen. Even when they are listed as part of the demesne, *servi* are unlikely to be referring to agricultural slaves housed and fed in their lord's own house: as Moore notes, if these existed at all by that time, they are certainly extraordinarily elusive figures.¹⁵⁷ It is not impossible, then, that the *servi* in Domesday refer mostly either to unfree tenants, or to unfree farm workers placed in tenants' households. This type of reading would bring the late Anglo-Saxon great estate closer to earlier Continental exploitations like that of Prüm.

All these different instances of household slavery, from Saint Swithun's urban community in Winchester, through Wulfstan's paranoid fantasy, to the likely additional farmhands of Domesday Book, show the wide range of settings to which it could be relevant: highly personal and emotional relationships, to the point of leading to distrust and a sense of masters' vulnerability, as in Byzantium; all the

¹⁵⁵ Faith, *The English Peasantry and the Growth of Lordship*, pp. 66–7.

¹⁵⁶ Moore, 'Domesday slavery', p. 214. See also Pelteret, *Slavery in Early Mediaeval England*, pp. 185–240.

¹⁵⁷ Moore, 'Domesday slavery', p. 215.

way to much more impersonal relationships, when lords delegated unfree manpower to tenant farms, as in Francia and Italy.

CONCLUSION

All the regions discussed in this chapter show a substantial amount of experimentation through the early middle ages. In none of them can household slavery really be said to correspond to a straightforward survival from the Roman era. It was not just dwindling, nor was it staying the same: instead, it was repurposed to meet new needs in the here and now. Some varieties of it seem to have become less useful in some niches, while taking on new functions in others (for instance, as part of the tenant household). Practically everywhere, domestic unfree labour involved people of very different origins, both insiders and outsiders, exercising different functions in very different types of household (at elite level or lower). Most regions involve most of these different types, in varying proportions, throughout the early middle ages. By the end of the period, though, we begin to see a degree of specialization of unfree status in a household context, though not everywhere shifting in the same direction.

Slavery as an element of the independent peasant household is probably the setting showing the least variation across Europe and the least change across time. Although large estates get more attention, this type of household still continued to account for a large proportion of rural exploitations, at least outside the regions most heavily dominated by estate-owning aristocracies.¹⁵⁸ Low-level household slave labour may well have remained fairly common in that context, as a general help for farm work. This added manpower was probably drawn from the poorest among insiders, as opposed to the sort of trade that brought 'luxury' foreign slaves to elite households: these, judging by known price ranges, would have been unaffordable at this lower level. This type of independent peasant exploitation, however, is very under-represented in the source material: although some areas of Western Europe, notably Wales, Brittany, and Spain, have yielded some important information on peasant communities, it tends to come to us via records of transactions which mostly leave internal household dynamics still shrouded in mystery.¹⁵⁹

By contrast, the main driving force in experimentation, in effecting development over time, and in changing the overall profile of household slavery, as well as the context where we see the greatest contrasts between regions, was undoubtedly the aristocratic or at the very least the elite household. The biggest players, notably religious institutions, had the greatest scope to have their priorities dealt with through legislation, so that their own particular (and slightly exceptional)

¹⁵⁸ Wickham, *Framing the Early Middle Ages*, pp. 386–7.

¹⁵⁹ Peasant communities in Welsh, Breton, and Northern Iberian documents have been studied by Wendy Davies: *Welsh Microcosm, Small Worlds, Acts of Giving*.

preoccupations loom much larger in the contemporary understanding of unfreedom, at least as filtered in the written sources, than more 'normal' uses in peasant households. They also had a correspondingly larger impact on later, more precise redefinitions of unfreedom from the twelfth century—to which the use of slaves as extra farmhands within the peasant household was not of any interest. To that extent, lords had a fairly disproportionate impact on the process of specialization in the uses of unfreedom by the end of the early middle ages, including in a household context.

The trajectory in Southern Europe was for household slavery to become more and more exclusively restricted to religious and/or ethnic outsiders and traded captives—in contrast to unfree tenants, who were drawn from among the ranks of Christian peasants, or, in Spain and in Sicily, from the existing settled Muslim population. In Spain, this seems to have happened during the course of the twelfth century; the pattern took a little longer to become established in Italy, in the course of the thirteenth. This process of increasing division between different types of unfree personnel was dependent on the existence of a sufficiently reliable supply of slaves from outside sources (whether through military activity or through trade), as well as of sufficiently specialized household production, taken independently from an agricultural estate setting. Since peasant households would not have had many Muslim slaves—since, as we saw, they were not likely to have been supplied in unfree labour through trade—this specialization, outside aristocratic households, would have been chiefly relevant in an urban context. Spain and Italy, by the twelfth and thirteenth centuries, had re-joined a type of profile for household slavery that was much more similar to that found in Byzantium from the start of our period, as well as paving the way for later medieval Mediterranean chattel slavery.

In the South, then, elite priorities tended towards an increasingly impermeable dividing line between unfree tenants on the one hand and domestic slaves on the other. By contrast, in Francia by the ninth century, great lordships operated a very different sort of change in their uses for unfree labour in their households, by emphasizing instead flexibility and mobility between household and agricultural estate settings (this mobility is also visible in Northern Italy and possibly also in later Anglo-Saxon England, though captives and/or bought slaves seem to have remained more relevant at the elite household level in both of these regions). As far as lords' own households were concerned, flexibility was made increasingly possible by relying on an undifferentiated supply of labour from tenant farms: *mancipia* without a holding housed in tenants' households, whose labour could be mobilized wherever needed, whether on the tenancy or on the lord's reserve; or supernumerary and unmarried members of unfree tenants' own families, for whom domestic service could correspond only to a particular phase in the life-cycle. Unfree labour in that context, then, was the object of completely different experiments: the point of unfree status became largely to identify particular people as fair game among the estate population—particularly when they also suffered from other possible varieties of social weakness besides status, such as

those linked to age or gender. In other words, the attribution of unfree status became less specifically tied to any particular form of work, and more a way of establishing who might be squeezed more if required—who might be asked to supply more work, or whose unmarried children might be drafted in for a period of domestic service or household production. This, as we will see in the next chapter, had some important repercussions on the methods of attribution of unfree status among tenants within estate communities.

Unfree Status in Estate Communities

There were different ways of managing a large estate, which in turn led to very different kinds of engagement with unfree status as a tool of domination. The most basic distinction is between direct exploitation (in which the landowner met the living costs of a full-time workforce and kept all of the produce) and indirect exploitation (in which the landowner let land out to tenants, who saw to their own needs and paid dues and renders). The first type privileged the requirements of the landowner in choice of crop and organization of production; the second necessarily had to make a lot more room for the requirements of the tenant farming the land.

Direct exploitation was a potentially high-yield, but also high-risk strategy; it was also logistically very challenging, and, particularly if it was fulfilled entirely by full-time slave personnel, implied not only a high initial input of capital, but also extremely high supervision costs.¹ It was viable only in the presence of reliable market outlets capable of absorbing large volumes of cash crops. These conditions applied to an extent under the Roman Empire, where slavery does seem to have been an option for the control of labour for a very wide range of economic activity, including specialized, market-oriented production, for instance, of wine or olive oil.² Even then, however, estate management that was *both* wholly direct *and* very large-scale, as in the classic *latifundia* model, was always an extremely rare phenomenon.³

Latifundia were basically non-existent by the beginning of the early medieval period, by which time the economy had become much less structurally complex, and market exchange dramatically reduced in scale (though this happened at a different pace and to a different extent in various regions of Europe): this can only have intensified the risks, and lowered the potential rewards, of specialized production under direct management.⁴ In practice, then, direct exploitation of intensively supervised unfree labour only took place on a scale small enough to be manageable,

¹ Fenoaltea, 'Slavery and supervision in comparative perspective'.

² Harper, *Slavery in the Late Roman World*, p. 153.

³ See Introduction, pp. 4–5.

⁴ Wickham, *Framing the Early Middle Ages*: '... patterns of direct management are responses to the needs and opportunities of exchange' (p. 265). All recent studies agree on economic simplification despite markedly different interpretations of this phenomenon: Wickham, *Framing the Early Middle Ages*; Ward-Perkins, *The Fall of Rome and the End of Civilization*; McCormick, *Origins of the European Economy*. Wage labour, though not totally absent, is also very rarely found in the evidence, which removes another option for widespread direct large-scale exploitation, and again suggests low demand for this type of organization: see references in Wickham, *Framing the Early Middle Ages*, p. 301, n. 90. On the absence of directly managed great estates in the early middle ages, see Verhulst, 'The decline of slavery'; Goetz, 'Serfdom in the Carolingian period'.

that is, as we saw in the previous chapter, that of the household unit, or of a single farm; whereas larger estates were essentially exploited indirectly, through a tenant workforce, some of whom could also be unfree, but who were by virtue of their position much more loosely supervised.

There was, however, one key variable in the way estates were organized, and that was the intensity of the connection between tenancies on the one hand, and, on the other, whatever proportion of the land might have remained under the landlord's own direct exploitation (his reserve, or *demesne*). In this respect, even large estates exploited chiefly through tenancies could still correspond to vastly different levels of organizational complexity. The least complex scenario was when a large estate was divided up entirely into small tenant farms. In this case, the estate effectively operated like a constellation of household exploitations, much like those discussed in Chapter 4. Although all were controlled by the same landowner, to whom rent and renders had to be supplied, this did not amount to a substantially new organizational principle: this type of large estate amounts to a concentration of resources only at the point of consumption, not of production. Even if lords chose to retain some land under their direct control, if only to support their own household (and they might well have used unfree labour to do the work), this would only have added one larger household, the lord's own, to the constellation of peasant households on the tenancies: there would thus have been little functional overlap between a lord's own household workers and his tenants—except perhaps at moments of exceptionally high demand for agricultural labour, such as harvest time, when tenants might be asked to pitch in on the reserve as well.

On an altogether different plane of complexity is the bipartite estate, characterized by a much higher level of articulation and interdependence between tenancies and the lord's own directly exploited reserve. As an ideal type, it is meant to involve a perfect symbiosis between the two, with tenants responsible not only for producing rent and dues from their own holdings, but also for cultivating the reserve for the benefit of their lord through regular labour duties. The bipartite estate represents a step-change in techniques of exploitation; Chris Wickham has described it as 'the first medieval evidence of systematic aristocratic interest in, and at least partial control of, agrarian production'.⁵ It seems to have emerged in the course of the eighth century, but to have only become relatively common from about 800 in Northern Francia and in Northern Italy.⁶ By the eleventh to twelfth centuries, something akin to this model, referred to in anglophone historiography under the generic term of 'manor', had been or was on the verge of being adopted in one

⁵ Wickham, *Framing the Early Middle Ages*, p. 293.

⁶ It is of course debated when it first came into being, though the work of Verhulst has led to more or less general agreement that it was not established on a significant scale before the Carolingian period. Thankfully, it is not my business here to deal with the exact chronology of the establishment of the bipartite estate, or whether it was in continuity with late Roman labour duties or not. The classic article arguing for the bipartite estate as an essentially Carolingian phenomenon is Verhulst, 'La genèse du régime domanial'. Late antique origins have recently been proposed again by Sarris, 'Origins of the manorial economy'; against, Wickham, *Framing the Early Middle Ages*, p. 299—arguing that bipartite estates are really not such a complicated idea, and that we should resist seeing all different instances of it as necessarily genealogically related.

form or another in most (though not quite all) regions of Western Europe, though the exact chronology of the process of manorialization is of course deeply debated for each region.

The eventual triumph of the model of strong interdependence between tenancy and reserve did not necessarily involve the 'classic' bipartite estate type, which found its fullest expression only in quite limited chronological and geographical circumstances: that is, essentially during the ninth century, in Francia between the Seine and the Rhine rivers, and also, in a somewhat different form, in Northern Italy. Later and in most other regions, lords tended to rely instead on a more flexible combination of labour duties on the one hand, and, on the other, the collection of cash dues exempting tenants from performing such duties. The tenth century, for instance, is generally understood as marking the beginning of the decline of the bipartite estate in both Northern Italy and in Francia, with shrinking reserves, increasing amounts of land farmed through tenancy, and owed labour duties, now surplus to requirement, increasingly commuted to money payments.⁷ Nevertheless, these new manorial forms were still capable, for instance, of reversing the process, when lords decided to swing back towards direct exploitation and reconvert cash dues into labour duties—as seems to have happened in England during the thirteenth century, when high inflation turned regular cash dues into a less attractive proposition.⁸ This more generic manorial model therefore offered not only very significant scope for intensification at minimal risk, but also a great deal of flexibility, since it could be continually adapted to suit varying levels of emphasis on direct exploitation.

This is, of course, only an extremely schematic characterization of the trajectory of large estates. The aim of this chapter is not to offer an agrarian history of the period, but to identify the logic of the deployment of unfree status in these different forms of large-estate organization: how it was mobilized and to what ends, and what mechanisms were used in order to ensure its social reproduction. I will stick to my usual policy and proceed region by region, broadly speaking starting with the regions displaying the simplest forms of large estate, and then moving on to the most complex and articulated—in effect moving ever further away from the small-scale type of household organization discussed in Chapter 4. The obvious danger of this approach is that it could give the impression that each region was characterized chiefly by one dominant type of large estate exploitation, when in fact most forms discussed here were relevant to most of the regions under consideration—at least in some way, at some point on the chronological spectrum, and at some social and economic levels. The most sophisticated types of large estate, wherever they

⁷ E.g. Rösener, 'The decline of the classic manor in Germany'; for Italy, Toubert, 'Il sistema curtense', pp. 59–63; Andreolli and Montanari, *L'azienda curtense*, pp. 201–4; Mancassola, *L'azienda curtense*.

⁸ Harvey, 'The Pipe Rolls and the adoption of demesne farming in England'. Other dues, such as rent, were not so flexible, and could give unfree tenants as opposed to free ones 'a considerable measure of protection from the full force of the market' (Hatcher, 'English serfdom and villeinage', p. 5). A different approach for dealing with the erosion by inflation of the value of cash-commuted dues and fixed rents seems to have been manumission in exchange for an agreed compensation price and a renegotiation of future dues: Jordan, *From Servitude to Freedom*, pp. 29–33.

existed, always also coexisted with the simplest: they operated in addition to, rather than replacing, simpler structures. Francia, for instance, had large bipartite estates *and* estates farmed wholly through tenancies *and* household-level exploitations, all in existence at the same time: these were not competing models, but corresponded to different scales of exploitation, fulfilling different purposes.

It is, then, important to bear in mind that exploitations of all sizes and levels of complexity survived throughout the middle ages, and that a relative convergence in the forms of exploitation of large estates across most Western European regions only took place very much at the end of our period. It is also the case, however, that none of these other, simpler forms of exploitation ended up becoming a driving force in the changing profile of unfree status to the same extent. The landlords who controlled the very largest estates were also normally those most capable of imposing a manorial organization, and their choices inevitably had important repercussions on the forms of domination prevalent in any given region. They were also key protagonists in the minds of kings and churchmen, whose own discussions over unfree status were primarily meant to cater to this audience (as we shall see in Chapter 6). This not only made manorial lords economically dominant, but also gave them a high degree of influence over contemporary discourses about unfree status, which is why the manor and its associated priorities had a particularly powerful impact on later definitions of serfdom in the twelfth century. Devoting special attention to the manor, then, while it does sacrifice something to teleology, is also not completely unwarranted: it is not a bad trail to follow, at least in terms of identifying the main lines of adaptation and innovation in the uses of unfreedom.

Similarly, bipartite estates *do* represent an important and fruitful new experiment, so the lion's share of discussion in this chapter will be dealing with them. It is also a remarkably well-documented experiment: the practical challenges involved in keeping track of every element of the system meant that bipartite estates also tended to generate much fuller records, and, thanks to the evidence of polyptychs in particular, also the ones with the best scope for analysing the difference that unfree status made. For other, simpler forms of large estate exploitation, mentions of unfree tenants are mostly confined to long lists of appurtenances attached to estates in deeds of transfer. These are usually quite vague in their use of terminology, tend to give very little sense of how these people lived and worked in practice, and only exceptionally give any kind of information on numbers, organization, or family structures. The sheer difficulties involved in running a bipartite estate, by contrast, meant that Francia and Italy produced far more by way of detailed estate inventories—as well as, not coincidentally, far more records of disputes over status. The higher numbers of the latter in particular should not be seen just as an accident of survival, but as a sign of innovation in the uses of unfree status, as well as a new urgency in defining it.

IRELAND AND WALES

The regions where unfree tenants look most like a simple extension of household labour, as opposed to anything very much more logistically complex, tend to be

found towards the lower end of the spectrum of economic complexity, as in Ireland or Wales, where for most of the early middle ages elites seem to have remained comparatively less wealthy, less dominant and differentiated, and less able to sell agricultural surplus on a market than elsewhere in Western Europe. Relationships of domination over free persons seem to have been less economically fruitful there than in most other regions. For free tenants, the extraction of surplus, direct or indirect, seems to have been oriented towards the circulation of perishable goods for the purposes of household consumption and hospitality. In these regions, then, it seems that lords, while certainly present and socially important, and no doubt controlling a significant amount of land, did not amount to a major driving force in the organization of economic production.

In Ireland, cattle, rather than land, seems to have been the type of grant most relevant to defining the hierarchical relationship between a lord and the free men who became his clients.⁹ The client had to supply a food rent in return, as well as largely non-economic services such as military aid, rather than any regular labour services: these were not required from him except at the very highest points in the agricultural year, during sowing and harvesting.¹⁰ Cereal cultivation, of course, was central to agricultural production, and it was also possible to rent land from a lord or from another farmer in exchange for a proportion of the produce; but this kind of lease seems to have been much less symbolically charged, and less inherently constitutive of a lasting hierarchical relationship. When a client received land from his lord as well as cattle, the cattle was apparently still considered to be the most important aspect of what was being transferred.¹¹ This gave land an inherently more marginal place in the process of building relationships of political and social dependence between free people, and Irish land-lordship seems accordingly to have remained on a much smaller scale than on the Continent.¹²

The limits placed on free clients' exploitability implies that landlords had to rely more on unfree labour in order to meet the regular needs of their household consumption.¹³ In this case, then, in stark contrast with the Roman Empire, the relatively important role of unfree labour in economic production was the result of low economic complexity, not economic sophistication. Lords' needs were met through household slavery of the kind discussed in Chapter 4, but also, it seems, through an assortment of dependants living mostly or entirely off land granted to them by the lord. These did have to supply labour services, and were generally considered unfree as a result. *Fuidre* are the best-known example: though in

⁹ On different forms of Irish clientship, see Charles-Edwards, *Early Irish and Welsh Kinship*, pp. 337–63.

¹⁰ Charles-Edwards, *Early Irish and Welsh Kinship*, pp. 338–9; Charles-Edwards, *Early Christian Ireland*, pp. 71–3; Brady, 'Labor and agriculture in early medieval Ireland', p. 128. Davies, 'Labour service in Brittonic areas'; Davies, 'Free peasants and large landowners in the far West'.

¹¹ Kelly, *Early Irish Farming*, p. 423.

¹² Kelly, 'The relative importance of cereals and livestock in the medieval Irish economy'. On the organization of household production, Charles-Edwards, *Early Christian Ireland*, pp. 108–11. Wickham, *Framing the Early Middle Ages*, pp. 535–9.

¹³ Charles-Edwards, *Early Christian Ireland*, pp. 68–80; Charles-Edwards, *Early Irish and Welsh Kinship*, p. 338; for the legal evidence, Kelly, *A Guide to Early Irish Law*, pp. 95–8.

principle an intermediary category (see Chapter 2), they were assimilated with unfreedom, and, as Thomas Charles-Edwards has pointed out, they seem to offer the closest parallel to the unfree tenants and *coloni* of Continental estates. Even then, there were some important differences, not least in that they were not necessarily granted any land, but might reside in the household much like ordinary slaves.¹⁴ *Fuidre* in fact seem to have covered so many possible places on the spectrum of obligations that something like ‘tenancy’ would be hard to isolate as their defining characteristic. They certainly offered a potential basis for the development of a more intensive and hereditary form of exploitation (unlike either household slavery, which was impossible to stretch past a certain scale without requiring fundamentally different structures of exploitation, or clientship, which apparently involved little scope for constraint and was a one-lifetime arrangement only). Law tracts, however, seem to have sought to curb this potential rather than to enhance it. *Fuidre* are presented there in an explicitly transitional position, with descendants within a maximum of three generations eventually destined to become settled into a more recognizable situation, equivalent to either an unfree household dependant or to a free client, or in some cases a member of the kin group.¹⁵ The fact that neither heredity nor even landed tenancy were stressed as key traits of this category places it in marked contrast to its counterparts elsewhere in Europe. Even if *fuidre* had many traits in common with them in terms of their day-to-day experience of dependence, the attribution of this kind of status in Ireland evidently had a different point, and seems to have been more a way of establishing the modalities of an eventual integration into either household structures (as kin or slaves) or political relationships (as clients).

It is anyway unclear just how intensively such dependants were exploited in practice, even when they fell under this sort of disadvantageous quasi-unfree category. In Wales, where large (sometimes very large) estates seem to have been common, along with landed tenants in a slightly more conventional mould, it seems that even quite lowly hereditary tenants were only subjected to fairly light dues, with no real evidence for labour services—in contrast, once again, to household-level exploitation, which seems, as in Ireland, to have relied in great part on slave labour.¹⁶

Early medieval Wales has been seen by some historians as a land organized into ‘multiple estates’: that is, large agglomerations of smaller estates grouped around an elite centre, from which lords controlled an intensively exploited servile workforce in their immediate vicinity, while at the same time exercising a much looser kind of domination on a more extensive territory made up of peripheral farms, which

¹⁴ Charles-Edwards, *Early Irish and Welsh Kinship*, p. 338 on the comparison with Continental *coloni*.

¹⁵ See Chapter 2, pp. 70–2. Patterson, *Cattle Lords and Clansmen*: *fuidre* were ‘not thought of as a positive status category but as a social aberration’ (p. 152).

¹⁶ On the absence of labour services in Wales, see Davies, *Patterns of Power in Early Medieval Wales*, pp. 24–6 and 90; ‘Labour service in Brittonic areas’, *Wales in the Early Middle Ages*, pp. 43 and 64–8 (on low commercialization: pp. 55 and 57; on the prevalence of slavery: p. 64); *An Early Welsh Microcosm*, pp. 43–8.

merely had to supply food renders. The point of this form of organization, the theory goes, would have been to ensure the supply of as wide a range as possible of agricultural produce to the central elite household. The existence of the multiple estate in Wales before the Anglo-Norman conquest, however, remains entirely hypothetical.¹⁷ It is in any case very unclear how legal status might have fitted into this model, if at all: lords may simply not have been able to get that much out of their tenants regardless of their status.¹⁸ If they managed to control anyone particularly closely during the early medieval period, there is little evidence that it was on anything much beyond the scale of the household level of organization discussed in Chapter 4.

THE IBERIAN PENINSULA

Northern Spain has also been identified as a zone where independent peasant farms remained proportionally important in overall agricultural production for most of the early middle ages, where large estates only had small demesnes, and where lords charged relatively low dues. Tenth-century documents sometimes do contain long lists of *mancipia* following on after lists of farms being transferred, but without making any explicit link between them: these have occasionally been read as large-scale direct exploitation, but given the numbers involved, the *mancipia* are much more likely to have been tenants.¹⁹ Tenancy, all in all, was probably the most normal form of large estate exploitation, though here as in many other Mediterranean regions, it seems not to have been subject to mechanisms of extraction developed enough to turn it into the core of lords' economic power. Tenants seem in general to have been relatively lightly subjected during the early middle ages: although their number is likely to have increased during the course of the tenth century as a result of the sheer volume of alienation of land to churches,

¹⁷ Originally proposed by Jones, 'Multiple estates as a model framework'. Davies, *Wales in the Early Middle Ages*, pp. 42–7, highlights problems with extending the multiple estate model to pre-Conquest Wales; for a recent discussion, see also Charles-Edwards, *Wales and the Britons*, pp. 289–92.

¹⁸ Davies, *Wales in the Early Middle Ages*, p. 47.

¹⁹ The *mancipia* and the land could have been listed separately simply because they were seen as belonging to different categories of property, such as moveable vs. non-moveable. Three *dos* documents list large numbers of villas, followed in a separate part of the document by large numbers of named *mancipia*: twenty-six named men and women in *Celanova* II, no. 457 (1029), p. 627; eighty-two men, thirty-four women listed after eighty villas in *Sobrado* I, no. 127 (1037). Because of the lack of direct association with the landed estates in the text, Fernández Ferreiro interprets these two documents as probably referring to domestic or artisan slaves, though he notes the large numbers are surprising in such a context (*Servos e escravos*, pp. 56–8); he takes confirmation from the donation from Ordoño II and Elvira (already discussed in Chapter 4, p. 148), which also lists a large number of villas and follows this with the names of more than thirty *mancipia*—but this is not really comparable with the *dos* documents, as it involves a transfer to a religious institution, not to a single woman, so the large numbers are more explicable there; and this was also a special case, where the gift of *mancipia* was exceptionally powerful symbolically, since it involved Muslim captives being given to a Christian institution (*Tumbo A de la Catedral de Santiago* no. 21, pp. 77–9). For another example of *dos*, from Portugal, see *Portugaliae Monumenta Historica* vol. 1, no. 595, made by one Gundisalvus Luz in 1081, which contains a list of thirty-seven villas followed by the names of twenty *mancipia*, transferred along with their children; these again look very much like tenants.

there is little evidence that they lived under particularly harsh terms.²⁰ Even when lords began to engage in more significant economic intensification from the eleventh and twelfth centuries, labour duties seem to have been less of a priority to them than the extraction of higher payments and renders.²¹

There were still tenants with heavy obligations in the tenth century, but the link between these and unfree status is far from systematic. It is not clear that unfree tenants were squeezed particularly more tightly than free ones, or used differently from them. Those tenants who seem to fall under the heaviest obligations were not always characterized as unfree, and indeed some were explicitly free.²² Conversely, unfree tenants were not always among the most heavily subjected, and some even feature as interested parties in transactions dealing with the land they occupied: for instance, in the confirmation of the grant of an estate (*villa*) to a monastery, the *servus* Astrurio, who, along with his children and nephews, was to continue to work and live there as the *servus* of the monastery, seems to have added his own signature to the document.²³ Those *servi* who had been put in charge of managing a farm, at least, could evidently achieve a fairly impressive collection of rights as unfree tenants.²⁴

All this suggests that unfree tenancy in early medieval Spain was not systematically linked with more intensive exploitation. It may be that unfreedom there was simply not as fruitful a tool for expressing hierarchical relationships outside a household context: if so, this may also explain why the region offers such meagre evidence,

²⁰ Davies, *Acts of Giving*, p. 198: tenants of estates could act as a community and gain a relatively strong hand; 'The level of seigneurialization in northern Spain was quite low by continental western European standards in the tenth century' (p. 217). See also Davies, 'Free peasants and large landowners in the far West'.

²¹ Although Catalonia, through the work of Pierre Bonnassie, has become a textbook case for the 'feudal revolution' argument (Bonnassie, *La Catalogne*), the new oppression brought by lords upon peasants in the eleventh century was not founded on legal status so much as an all-round violent assertion of dominance: Freedman, *Origins of Peasant Servitude*, p. 72. On Pyrenean regions: Laliena Corbera, *Servos medievales de Aragón y Navarra*, pp. 156–7 on very light labour duties even for the unfree in the eleventh and twelfth centuries.

²² Davies, *Acts of Giving*, pp. 20–1, lists examples where the practical limits to peasants' freedom were such that they might be considered 'servile' by the standards of other regions of Western Europe, but without any particular status being assigned to them explicitly. Servile tenure is difficult to identify before 1000 (pp. 19–20, with documents cited at n. 63). On the ambiguity of terminology, see Isla Frez, *La sociedad gallega en la alta edad media*, pp. 208–14.

²³ *Portugaliae Monumenta Historica*, no. 139 (984), p. 88. The husband of the granter had already made a document containing essentially the same provisions: no. 22 (dated to 919 in edition, though it must surely be closer to the date of the wife's document: it contains the same names and uses the same notary). On the term *villa* in Spain, see Davies, *Acts of Giving*, pp. 196–7: here it looks like a single-owner estate exploited through one family. For sales and other transfers of property said to have come to the seller from his or her *servus*: Fernandez Ferreiro, *Servos e escravos*, pp. 48–9; villas said to 'belong' to the *servi* transferred: *Tumbo A de la Catedral de Santiago*, no. 18 (899); *Samos* nos. 183 (1074) and 140 (1098); in *Sobrado I*, no. 63, the giver makes a donation of a villa that came to his grandfather via the latter's *servus* Frontiniano (Fernandez Ferreiro, *Servos e escravos*, p. 50). In *Portugaliae Monumenta Historica*, nos. 232 and 263, some people designated as *mancipia* seem to share in the profits of a sale of their inheritance (*ereditates*), in association with their owner, the countess Munia.

²⁴ E.g., in Catalonia, those *servi* who were sold together with their 'allod' and their children during the tenth century; on this and other examples, Freedman, *Origins of Peasant Servitude*, p. 63, n. 32.

compared to Francia or Italy, for the use of entry into unfree status or self-gift as a means of entering a distinctive type of relationship with a lord.²⁵ There must have been a point in attributing unfree status to tenants, since it took some effort to reproduce it from generation to generation; but what that point was is largely obscured in the surviving documentation. Perhaps it went no further than denying them the right to leave, or perhaps it helped to move those who were not in charge of a tenure, such as the unmarried young, in and out of tenancies with greater ease. Either way, the organizational impact of legal status on the relationship between lord and tenant seems difficult to assess well into the twelfth century, at which point unfree status begins to reflect somewhat more systematically the growing distinction between poorer and wealthier members of peasant communities.²⁶

FRANCIA

In the regions we have been looking at so far, unfree status evidently was useful at the level of household organization—as we saw in the previous chapter—but its impact on the categorization of tenants seems much less systematic. This pattern may be said to apply to most regions of Western Europe up to the eighth century: the majority of great estates were farmed out to tenants, who owed rent and dues on their holdings rather than labour; estate centres did not have much of an organizational function beyond the collection of renders; and demesnes, where they existed, were small-scale and probably catered to little more than household consumption.²⁷ It is also particularly difficult to tell the difference between free and unfree tenants, and what impact legal status had, for this type of estate organisation; perhaps the only really significant effect it had was that free tenants were able to move away, which would automatically have placed them in a better position to negotiate terms.

All these conditions also applied in Francia up to the early eighth century: even extremely powerful lords, such as Abbo in Provence, who controlled an enormous area stretching from the Massif Central to Marseille, seem not to have exploited their lands in a particularly intensive way.²⁸ From around 800, there was a clear regional parting of the ways. Southern Gaul, in contrast with the more cereal-focused North, remained outside the zone of the classic bipartite estate throughout the Carolingian period. There is also no clear evidence of labour

²⁵ See Chapter 2, pp. 65–6.

²⁶ Freedman, 'Siervos, campesinos y cambio social', pp. 142–5 on the establishment of serfdom in Catalonia reflecting the winners and losers of economic growth among peasant communities themselves, as much as reflecting the single-handed action of lords.

²⁷ Tits-Dieuaide, 'Grands domaines, grandes et petites exploitations en Gaule mérovingienne', arguing the majority of estates would have been cultivated via tenancy, and only a small minority via direct exploitation through slaves; Chris Wickham has gone further in arguing that tenancy was by far the most dominant form of exploitation before 800, and direct exploitation of any kind by lords only negligible (*Framing the Early Middle Ages*, pp. 280–302, concentrating on Francia and Northern Italy as test cases), except perhaps in the special case of vineyards (pp. 285–7).

²⁸ Geary, *Aristocracy in Provence*; Carrier, *Les usages de la servitude*, p. 44, calls this 'loose lordship', borrowing the phrase from Innes, *State and Society*, pp. 75–6, where it was applied to the Rhine valley up to 700; Devroey, *Puissants et misérables*, pp. 467–8.

services being extracted from tenants there during the ninth century, nor for anything like large-scale, concentrated, intensively farmed demesnes.²⁹ The only substantial polyptych surviving from the South, the Wadaldus polyptych, compiled in 813–814 and dealing with properties belonging to the abbey of St-Victor and the cathedral church of Marseille, makes no mention of any labour duties owed by tenants, free or unfree, and seems to expect only very light renders from them, which makes this polyptych a very strange sort of beast in comparison with examples surviving from Northern and Eastern Francia.³⁰

The polyptych presents itself as a *descriptio mancipiorum*, literally an ‘inventory of slaves’, though the lists themselves also include, alongside actual *mancipia*, free tenants as well as many of unspecified status, which suggests that *mancipium* in the title was being used to mean ‘dependant’ in a generic, non-legal sense.³¹ At any rate, unfree tenants do not seem to have had to pay heavier dues or renders. Devroey has argued that the polyptych might only have been intended to record a small range of dues specifically earmarked for the support of clerks of the cathedral and/or the monks of St-Victor, omitting all others as irrelevant; if so, it may be that unfree tenants were in fact much more heavily burdened than free ones in reality, without this being recorded in the text.³² Nicolas Carrier has also proposed that the polyptych may have been intended to assess the spare work capacity of dependants, in order to prepare the ground for reorganization and the imposition of labour duties on a Northern Frankish model—which would explain the extraordinary level of detail the text goes into in describing tenants, their children, their age, and so on; but given the lack of evidence from this region for tenants performing labour duties on demesnes, this seems relatively unlikely.³³ The polyptych may have been drawn up not so much to squeeze peasants more, nor even to establish once and for all who was free and who was not (for which purpose it would have been very ineffective, since it focuses on a subset of charges and dues on which status seems to have had no bearing), but more to establish rights over land.³⁴ The raising of even quite

²⁹ Renard, ‘Grandes propriétés et organisation domaniale dans le Midi de la Gaule’, pp. 398–400, on Southern French documents, whether polyptychs or other documentary sources, suggesting small and dispersed demesnes, to the point of being difficult to identify as such; on the lack of evidence for labour services, and estate centres functioning as collection centres rather than as a focus for organization of labour: pp. 400–3. Similarly, there is little evidence for labour service in the South-East of France until the eleventh century: Carrier, *Les usages de la servitude*, pp. 118–19 (the first record of labour services in the Dauphiné dates from around 1060).

³⁰ *Polyptych of Wadaldus*; see Devroey, ‘Elaboration et usage des polyptyques’; Renard, ‘Grandes propriétés et organisation domaniale dans le Midi de la Gaule’, pp. 385–94. On peasant families: Faith, ‘Farms and families’. See also Carrier, *Les usages de la servitude*, pp. 64–81.

³¹ Renard, ‘Les *mancipia* carolingiens étaient-ils des esclaves?’ and ‘Lectures et relectures d’un polyptyque’, has shown on the basis of other polyptychs that the word *mancipium* was often used in two distinct senses, one a catch-all term referring to all kinds of dependants, the other a specific one denoting specifically unfree dependants; also Carrier, *Les usages de la servitude*, pp. 50–3. Where the Wadaldus polyptych does specify status, it describes dependent peasants typically enough as either *coloni* or *mancipia*.

³² Devroey, ‘Elaboration et usage des polyptyques’, pp. 462–4.

³³ Carrier, *Les usages de la servitude*, pp. 80–1.

³⁴ Part of the point of the polyptych was to restore the monastery’s rights over its property in the face of endemic encroachments by lay competitors: Faith, ‘Farms and families’, pp. 177, 179.

modest or near-symbolic payments would have been helpful in establishing personal ties of dependence over the inhabitants of an estate, which was also the most effective way of establishing rights over the land itself. The format of the source makes it difficult to judge whether unfree status in particular would have offered any added value for this purpose. It is worth noting, though, that the number of *mancipia* seems disproportionately high at Chaudol (*ager Galadius*), the estate situated furthest away from Marseille, the highest in altitude, and also where the church of Marseille had found it most difficult to establish its rights.³⁵ More generally, in fact, the further away the estate, the more people living on it seem to have been classified explicitly as unfree. The surveyors may have felt a particular incentive to assign an unfree status to people in more distant and more contested areas, in order to emphasize the seriousness of their claims to the estate itself.

Another possible reason for attributing unfree status may have been to manage not labour duties, but mobility between tenancy and household or other service, particularly for the young or those not yet assigned a tenure, as discussed in Chapter 4. This—rather than any ambition to run dispersed little mountain pastures along the same lines as a cereal-producing Northern great estate—could explain the extreme interest displayed in the polyptych in the age of dependants, which has turned it into such a treasure-trove for historians of the family and of demography, and otherwise seems so surprising given how little the compilers apparently expected to collect from tenants. Looking for likely prospects for household service, temporary or otherwise, could explain the attention placed on children and the unmarried young (*baccalarii*), as well as the notes included on their ability to work (some children are described as ‘feeble’, *debiles*). The text clearly shows there was some movement in and out of tenancies, with some children listed as being away ‘at school’, presumably the church’s own. The bright ones may have been being intended for the priesthood, but some could presumably also end up as servants. Charlemagne’s *Admonitio generalis* suggests that there was a strong expectation of overlap between unfree children and pupils in priests’ schools, since it enjoins priests not to spend all their time with unfree children, and to educate freeborn ones as well.³⁶ That said, the children of free tenants are given an equal level of attention in the text, so perhaps service outside the estate was attractive enough to entice free dependants voluntarily. Perhaps some would have been pushed into it, as peasant families seem to have only allowed one son to marry in order to avoid creating multiple heirs and to preserve the integrity of the holding.³⁷

Even if the polyptych was partly intended to manage the potential mobility of dependants, it would still remain the case that for most of the early middle ages in Provence, unfree dependants (and perhaps also free ones) were *either* providing labour in a household context *or* giving renders as tenants. In other words, the interdependence between tenancy and estate centre implied in this model operates

³⁵ On *ager Galadius*: Devroey, *Puissants et misérables*, pp. 469–72.

³⁶ *Capitulare* I, no. 22, c. 72. For an example of sons of *mancipia* educated within an ecclesiastical household, see *Passau* no. 38, discussed in Chapter 3, p. 99.

³⁷ As argued by Faith, ‘Farms and families’, pp. 196–9. See Chapter 6, pp. 237–8.

only at the level of the individual biographies of the dependants who moved between these two settings: it still does not amount to anything like a large-scale mobilization of tenant labour imposed simultaneously with renders.

By contrast, large-scale mobilization of tenants, and the simultaneous reliance on them for both direct and indirect exploitation, was precisely the point of the 'classic' bipartite estate found in Northern Francia, especially between the Seine and the Rhine, after about 800. It was geared towards increasing the size and production of demesnes in order to participate in a more market-oriented economy, and has been seen as the main economic powerhouse of the Carolingian period.³⁸ In practice, its dominance was very incomplete, and the ultra-fine balance implied in the classic bipartite model between the lord's reserve and tenancies was never achieved really consistently. Many great estates continued to be farmed out entirely to tenants, and the bipartite model also tended not to be deployed in the case of very small demesnes, for which the lord's own household labour force was presumably sufficient.³⁹ At the other end of the scale, a perfect balance was also difficult to achieve when the demesne became very large, which usually seems to have called for additional labour from landless prebendaries on top of that provided by tenants.⁴⁰ There was, then, something of a Goldilocks principle at work: an estate had to be 'just right' to be exploitable via a strict bipartite organization.

As we have just seen for Spain and Provence, it is usually difficult to see any systematic principle at work in the distinction between free and unfree tenants in those regions with a relatively light-touch approach to tenancy. If anything, one would expect this to be all the more true of bipartite estates, since these brought about an intensified exploitation of *all* tenants, free as well as unfree—something one might think would have made the personal status of dependants ever less relevant to lords' capacity to extract surplus. Instead, the opposite seems to happen: what we see is a dramatic expansion of documents recording and disputing over legal status. Two main types of source can help us to see what might have been at stake: polyptychs and records of disputes. Each, helpfully, deals with similar estates and estate types, but from different perspectives: polyptychs record status profiles across a large number of different estates, whereas disputes deal more with individual circumstances and their background. I will take each of them in turn.

Polyptychs

Polyptychs describe the tenant holdings of major monasteries, estate by estate, noting such things as their inhabitants, their relationships to each other, their own legal status as well as the legal status of their land (which was a different thing, and did not always match), and what the monastery expected from them in terms of dues, renders, and labour duties. Very occasionally, in the most com-

³⁸ Wickham, *Framing the Early Middle Ages*, p. 289. For two recent overviews, see Verhulst, *The Carolingian Economy*, pp. 31–60; Devroey, *Puissants et misérables*, pp. 519–83. For key case studies: Verhulst, *Le grand domaine*; Rösener, *Strukturen der Grundherrschaft*.

³⁹ Verhulst, *The Carolingian Economy*, p. 43. On the quite niche role of bipartite estates on the lands of Fulda: Weidinger, 'Untersuchungen zur Grundherrschaft des Klosters Fulda'.

⁴⁰ On this, see below, pp. 200–1.

plete entries, we find information on *all* of these things at once. Polyptychs, then, are an extraordinarily rich source, by far the most likely to offer us solid grounds for comparison across different estates, as well as across different regions. The results, perhaps predictably, are ambiguous: there are enough correlations between legal status and the extent of labour duties to suggest that some kind of spirit of system may have been at work, but at the same time so many gaps and inconsistencies as to require some explanation. An explanation often proposed for such inconsistencies is that the polyptychs record an older, archaic system of status that was slowly unravelling and losing its original coherence in the face of new pressures, all tending towards economic intensification and the gradual levelling in status of all tenants. Evidence of consistency would then reflect an older order, in which legal status had been more determinant for conditions of life; evidence suggesting a degree of randomness in the connection between status and labour duties would point towards a new state of play in which legal status mattered less (or, more specifically, where free status constituted less of a protection). As I hope to show, however, polyptychs suggest, on the contrary, a much revived interest in legal status; the distinction between free and unfree may often seem very slight to us, but this does not mean there was not a lot at stake in making it for the people involved. Unfree status was not a fossil made increasingly irrelevant by lords' strategies of economic intensification; instead, it played an active part in such strategies.

Consistency in the effects of the distinction between free and unfree is at its most convincing when adopting a low level of granularity: that is, the sense of consistency is greater when comparing larger regions, like East Francia and West Francia, than when comparing within a smaller region or within single estates. *Some* regional regularities are thus detectable, but only on a very large scale, and allowing for a large degree of generalization. For instance, the difference between the labour services owed by free and unfree farming units ('manses') is generally thought to have been considerably greater in East Francia than in West Francia.⁴¹ Further to this, very large numbers of servile manses can be found listed in some surviving estate descriptions from East Francia, as well as large numbers of *mancipia* listed by name in some transfer documents, which has led to the notion that there were far more unfree people East of the Rhine than there were in West Francia (Carl Hammer has thus described Bavaria as a 'large-scale slave society').⁴² But this may be a little misleading: bipartite estates seem to have been far less common in East Francia beyond the Rhine in any case, which makes it difficult to generalize; unfree tenants outside bipartite estates may well have lived under conditions closer to those found in

⁴¹ Verhulst, 'Étude comparative du régime domanial classique'; Verhulst, *The Carolingian Economy*, pp. 46–7: in East Francia, labour services of several days a week seem typical for the unfree, vs. a few weeks a year plus an allotted share of demesne to cultivate for the free and *lidi*; by contrast, in West Francia, one finds far fewer servile manses, and free ones are also much more heavily burdened (with labour services of several days a week, equivalent to what unfree tenants seem to have done in East Francia). The difference between free and unfree manses therefore seems to have been much smaller in West Francia (in St-Bertin, two days a week seems to have been typical for free manses, three days for servile ones).

⁴² Hammer, *A Large-Scale Slave Society*—note that the title is much more controversial than the actual argument of the book: see Introduction, n. 8.

less intensively exploited regions.⁴³ The evidence is also not quite comparable: whereas for the area West of the Rhine most of our information about *mancipia* comes from polyptychs, in the East estate descriptions (sometimes very detailed) feature most frequently as part of records of land transfer, which, as Etienne Renard has noted, can take a very different approach to recording status. Whereas polyptychs and other sources categorize people into a range of different statuses (such as *servi*, *coloni*, *ingenui*, and so on), documents of transfer often obscure such distinctions by referring to everyone as *mancipia*—an understandable attempt at simplification, since such documents were not concerned with reflecting rights exactly so much as with granting them fully and in the most expansive terms. When we find it in a documentary record, *mancipium* is therefore much more likely to mean ‘any kind of dependant’, including a free one, than when we find it in a polyptych or in another kind of source.⁴⁴ This alone could lead to a false impression of prevalence of unfreedom in the East.

At a lower regional level, the picture is still more ambiguous. The polyptych of the abbey of Prüm from 893—one of three major Carolingian polyptychs in terms of length, the other two being those of St-Germain-des-Prés and St-Rémi of Reims, both from West Francia—has been the most intensively scrutinized for signs of regularity in services.⁴⁵ The dues and renders owed are so diverse everywhere as to make establishing any link with legal status more or less hopeless. Labour services, on the other hand, have been seen as more promising: notably, labour services of two or three days a week on the demesne have been widely cited as typical of servile manses on the basis of this text.⁴⁶ The link between three days’ labour service per week and servile manses, however, was never discussed by contemporaries, and only became an explicit general principle centuries later, in a commentary supplied by the ex-abbot Caesarius in 1222, when he made a copy of the polyptych; it was probably no more than a deduction he had drawn from the text.⁴⁷

⁴³ On the comparative rarity of bipartite estates East of the Rhine: Innes, *State and Society*, pp. 77–81 on Lorsch and Fulda; Verhulst, *The Carolingian Economy*, p. 56 on bipartite estates in East Francia being largely restricted to fiscal lands, or ex-fiscal lands granted to churches. They may have been more widespread in Bavaria, where bipartite estates can be seen in the hands of laity as well as of churches in the course of the ninth century (Hammer, *A Large-Scale Slave Society*, pp. 18–24); but they are difficult to identify in the source material, which, though it is more plentiful for that region, consists essentially of charters: even in *Regensburg* no. 17, which includes a very full survey of the rural population of two estates at Lauterbach (discussed by Hammer, ‘Family and *familia*’), it is clear that there are tenants and a reserve, but not at all clear how interdependent these two parts may have been, since labour services are not mentioned. Furthermore, although estate descriptions beyond the Rhine do give large numbers of servile manses, this is usually without specifying the personal status of the inhabitants, and the discrepancy between the two could be such that this cannot really help to assess what proportion of the population was unfree—at least if West Frankish polyptychs are anything to go by: Devroey, ‘Libres et non-libres sur les terres de Saint-Rémi’, pp. 81 and 84. See also Rösener, ‘Vom Sklaven zum Bauern’.

⁴⁴ Renard, ‘Les *mancipia* carolingiens étaient-ils des esclaves?’, pp. 192–3. Of course, that is exactly how the *Polyptych of Wadaldus* used the term in its title, but this is atypical among polyptychs (see above, p. 184).

⁴⁵ *Prümer Urbar* (= Beyer, *Urkundenbuch* no. 135, pp. 142–201).

⁴⁶ Staab, *Untersuchungen*, pp. 54–60.

⁴⁷ This is Caesarius’s first note on the text: fol. 7v (*Prümer Urbar*, p. 164, n. 1). On this part of Caesarius’s commentary: Morimoto, ‘Le commentaire de Césaire (1222) sur le polyptyque de Prüm (893)’, pp. 276–86.

The degree of difference between free and servile manses in terms of labour duties could vary quite a lot across different estates: on some, three days' weekly work could also be assigned to manses the status of which was not given one way or the other, or to manses that were designated as *lidiles* (an intermediate position between free and unfree, on which more below), or, in some places, even to manses that were designated as free (*ingenuiles*).⁴⁸ Ludolf Kuchenbuch, in the most extensive study made of this polyptych, argued that the different levels of labour duties observable across different Prüm estates were grouped in large geographical blocks, and developed the concept of 'landscapes' of charges (*Rentenlandschaften*)—the idea being that different regional customs would have placed different limits on the demands that lords could impose on their peasant tenants, and so resulted in distinctive regional regimes of labour service, which would have applied largely irrespective of the identity and aims of individual landlords.⁴⁹ Adriaan Verhulst, in a rejoinder to Kuchenbuch, countered that the evidence from the polyptych cannot actually be so neatly broken down into distinct regional blocks: there is also quite a lot of diversity within such blocks, leading him to explain such differences through varying levels of intensification of economic production by lords, and how much they had been able to squeeze their free tenants on any given estate, rather than through the long-standing customs of wider geographical regions.⁵⁰ On balance, consensus on the matter now seems to have settled against geographical determinism, with greater importance placed on lords' strategies on a much more local, rather than regional, level.

On this much more local level, for instance within the confines of a single estate, polyptychs do generally seem to associate servile manses with heavier labour services than free ones, though there are exceptions there too. The existence of inconsistencies between status and associated labour duties within a single estate (for instance when free tenants had to perform very heavy labour duties) has been explained as the result of change over time. Kuchenbuch thought that the link between the status of manses and the charges associated with them would originally have been stronger, and the difference between them greater everywhere: three days per week's labour duty would originally have been confined exclusively to servile manses, but then gradually become much more widely imposed by the time of the redaction of the polyptych, as lords began to demand these heavier duties from as many tenants as they could.⁵¹ The situation observable in the polyptych would then be the result of a process of homogenization, leading towards the growing oppression of all tenants and a declining importance of status as a factor of differentiation.

So far, we have been discussing only servile farms or manses; but as mentioned earlier, to make things even more complicated, this was not always the same as the

⁴⁸ Kuchenbuch, *Bäuerliche Gesellschaft*, pp. 233–6; Morimoto, 'Aspects of the peasant economy', pp. 613–15.

⁴⁹ Kuchenbuch, *Bäuerliche Gesellschaft*, pp. 236–44; Kuchenbuch, 'Probleme der Rentenentwicklung'.

⁵⁰ Verhulst, 'Diversité du régime domanial', pp. 139–40; also Verhulst, *The Carolingian Economy*, pp. 46–7 (accepting that the different statuses of the population would have limited the initiative of lords: p. 41). Wickham, *Framing the Early Middle Ages*, p. 291, argues for a dialectic between increases in lords' demands and local norms as well as peasant resistance.

⁵¹ Kuchenbuch, *Bäuerliche Gesellschaft*, pp. 124–6.

personal status of their inhabitants. Servile manses were not always occupied by unfree people: some free tenants could live on servile manses, and perform 'servile' labour duties; conversely, though much less frequently, unfree tenants could also live on free manses under much lighter charges.⁵² The impact of the personal status of tenants on the charges they had to pay is even less systematic than that of the status of the manse itself. The imperfect correlation between the status of the farm and the personal status of its holder has again often been explained as a corruption of a putative earlier situation in which free tenants would have lived on free manses and servile tenants on servile manses. As in the case of manses, the idea is that the connection between status and duties would have been much clearer at some earlier, undocumented point, even though it no longer made as much sense by the time it was being recorded in our written sources. This was also the explanation put forward by Bloch on the basis of the polyptych of St-Germain, where he imagined the numbers of unfree people dwindling, eroded by regular manumissions, while the status of their farms remained the same.⁵³

The idea of a one-to-one match in the first place, however, is probably illusory.⁵⁴ As we saw earlier for Spain or Provence, it is no easier to find a one-to-one connection between status and duties in situations of lower economic intensification, when tenants were under less pressure from lords; if anything, the connection seems even more elusive than in these later polyptychs. Rather than seeing the picture recorded in polyptychs as the corrupted remnant of some earlier, more coherent system, perhaps we should see it instead as the result of a more dynamic process. A more likely explanation for this level of mismatch and incoherence between personal status and status of tenure, and between either of these and dues and services, might be that it was the outcome of multiple conflicts settled on a case-by-case basis through a variety of deals. Conflicts, at least, can be documented in the surviving evidence, which already gives them an advantage over the unified putative point of departure first imagined by Bloch. For example, a dispute dating from around the time St-Rémi was drawing up its polyptych shows the monastery claiming several families as unfree, and the polyptych itself also refers at one point to 'newly subjected' *servi* and *ancillae*.⁵⁵ The existence of such disputes should be

⁵² Devroey, *Puissants et misérables*, pp. 529–33: dues and duties were usually calculated based on the status of tenures, as well as on the size of land and its assets, rather than the status of persons. One finds generally many more free people on servile manses than unfree people on free manses (p. 530 for statistics based on the *Polyptych of St-Germain*; Devroey, 'Libres et non-libres sur les terres de Saint-Rémi', p. 84, on the recording of far, far more servile tenures in West Francia than there are unfree people, judging by both the St-Rémi and St-Germain polyptychs). Hammer, *A Large-Scale Slave Society*, p. 24, shows the disjunction between the status of the person and the type of service, with some free dependants giving unfree service and vice versa, in Bavaria as well.

⁵³ Bloch, 'Comment et pourquoi', pp. 36–7.

⁵⁴ On free people having been involved in farming a proportion of 'servile' lands from the start: Devroey, *Puissants et misérables*, p. 275.

⁵⁵ *Noviter repressi*; Devroey, 'Libres et non-libres sur les terres de Saint-Rémi'; see also Barbier, 'Hincmar, the polyptych of St-Rémi and the slaves of Courtisols', and below, n. 75. The *Polyptych of St-Germain* preserves the trace of five apparently unresolved disputes, where someone is listed as *calumniatus* (Sigoillot, 'Les liberi homines dans le polyptyque de Saint-Germain-des-Prés', p. 262, n. 8). All cases involve spouses of *coloni* and *coloniae*, who were presumably resisting becoming subsumed under their spouse's condition: XIX, 37, 44 and 48; XXIV, 42. Conflicts are particularly visible in

enough to dismiss the notion that unfree status was becoming more and more irrelevant: however haphazard its impact in general terms as far as we can see, contemporaries evidently regarded it as very much worth fighting over.

The process of drawing up a polyptych could involve inventing new duties, rather than simply recording them, and it could coincide with attempts to subordinate more firmly peasants of uncertain affiliation. Legal statuses as recorded in polyptychs are thus likely to reflect, at least to some extent, the winners and losers of the process of intensification of exploitation: those who got to have themselves and their manses designated as 'free', and those who did not. Seen against this background of change and conflict, the classification of persons or farms as 'servile' in the polyptychs could well represent the outcome, retrospective legitimation, and further intensification of an existing socio-economic disadvantage. Whatever regularities it is possible to detect in the distribution of labour duties (such as the three-day-a-week service noted for Prüm by Caesarius in the thirteenth century, and by a variety of historians since), rather than simply recording the corrupted remains of an earlier, neater link between status and duties, may in fact have become first established and imposed as a common rule of thumb as a result of the drawing up of the polyptych—though given the likely need for negotiation, complete consistency in levels of exploitation would never have been on the cards.

Seeing the assignation of status as a work in progress rather than a decaying structure could also offer a new way to explain some gaps in the data recorded. These can be considerable: for instance, over two thirds of the 1,750 manses listed in the polyptych of Prüm are not assigned a status one way or the other.⁵⁶ Rather than reflecting the eroding importance of status, or the idea that it was not worth recording in many cases, this could reflect instead a recent and incomplete process of categorization. It may well be that a status was only assigned to land, or indeed to its inhabitants, if and when there had been some sort of conflict or scope for renegotiation. If there had been no conflict or area of uncertainty about duties that had made it necessary to define status one way or the other, the information may have been left out simply because it did not exist yet. Among those farms that *were* categorized, free manses were clearly allocated very sparingly, with only sixty recorded—far fewer than servile ones (270) or the intermediary category of 'lidile' manses (230). This would be the distribution one would expect if lords were mainly interested in defining the status of farms in cases where they thought they might be able to achieve a negative categorization.

Equally, the mismatch between the status of tenants and the status of their land may have given more room for manoeuvre in such negotiations—for instance, if it meant that free but socially weak peasants could be offered rather disadvantageous terms on a servile holding, but without having to be willing to give up their own personal freedom as well. This, not mass manumissions, could explain why it is so

Carolingian Italy: see the cases discussed in Albertoni, 'Law and the peasant', though he is cautious about the idea of a general loss of freedom in the course of the ninth century, using cases to point to successful resistance; see also Padoa-Schioppa, 'Processi di libertà'.

⁵⁶ Morimoto, 'Aspects of the peasant economy', p. 612.

much more common to find free people living on unfree manses than unfree people living on free manses. Rather than being the sign of a system that was slowly losing its internal logic, using both forms of status would have offered more flexible combinations.

This could explain why personal status remained distinct, and continued to matter in its own right, even when its practical impact seems so much less clear than in the case of the status of the manses themselves. Whether or not being categorized as personally unfree led to any further negative consequences for the tenant seems to have been partly determined by pre-existing social weakness. For instance, whereas as a rule dues and duties were linked to the status of the manse, not that of the tenant, on a minority of estates in both the St-Rémi and St-Germain polyptychs charges also varied according to the personal status of the tenant. The extra duties involved generally seem to have affected unfree women much more than unfree men, presumably because they were less able to defend themselves against this kind of interpretation of their status.⁵⁷ Claiming a dependant as unfree was a way of taking maximum advantage of other forms of social weakness, and—crucially—also of identifying any future descendants as liable to the same kinds of disadvantage, thus making it permanent.

The substantially different status profiles of the rural population in different polyptychs may well reflect how much negotiation each institution had been forced to enter into during this process of categorization. For instance, a quarter of the dependants of St-Rémi were noted down as either unfree or freed, against only one tenth for St-Germain.⁵⁸ Such important variations in the proportion of unfree people in polyptychs could of course have a regional explanation; but they may also reflect how strong a hand the institution had had at the time of drawing up its polyptych.

An overall context of redefinition and negotiation could also account for varying levels of reliance on more ambiguous categories, curiously poised in-between free and unfree status.⁵⁹ One such category is that of *lidus*, a term which was already being used as a legal status category around the time of the initial compilation of Salic law, c.500, though it had evidently meant something quite different then.⁶⁰ Another such category, especially common in West Francia, is *colonus*, a rather vague term which usually meant ‘peasant’ in a non-technical sense, but which by the

⁵⁷ Devroey, ‘Femmes au miroir des polyptyques’, pp. 248–9; Devroey, ‘Libres et non-libres sur les terres de Saint-Rémi’, pp. 73–80.

⁵⁸ Devroey, *Puissants et misérables*, p. 538.

⁵⁹ These are sometimes referred to as ‘half-free’. Devroey, *Puissants et misérables*, p. 281, notes that ‘half-free’ is misleading, in that it suggests an explicitly established category, whereas in fact it was more like a grey area; he prefers to call them ‘less-free’ (‘moins-libres’, a translation of the German *Minderfreien*; on differences between French and German historiography on this point, see Chapter 3, n. 86, and Chapter 6, p. 234); for an earlier objection to ‘half-free’, see Bloch, ‘Liberté et servitude personnelles’, p. 327. On these grey-area categories, see Rio, “‘Half-free’ categories”.

⁶⁰ Balon, ‘Les lètes chez les Francs’, thinks they were military retainers; at any rate they feature in a very domestic context in Salic law (though this may be because Salic law was much more interested in household relations); by contrast, nowhere in the documentary record does the term feature in a domestic context. Certainly the Salic law meaning does not seem to have had much to do with what we find in polyptychs—suggesting that, like *colonus*, the word may have been repurposed.

Carolingian period was also capable of being repurposed so as to take on the value of a legal status, in order to contrast its bearers sometimes with slaves, at other times with free people.⁶¹ The use of such categories would again make better sense as opportunistic aids to negotiation, creating room for manoeuvre in a context of dispute, rather than reflecting any very conceptually strong and stable regional or chronological distinctions in the use of categories. Words like *lidus* or *colonus* may have proved useful by allowing the attribution of an ambiguous, grey-area condition with which each side could feel reasonably satisfied—neither completely unfree, which might have been unacceptable to the peasant, nor completely free, which might have been unacceptable to the monastery's agents. In the case of St-Rémi, the extreme rarity of *coloni*, the recording of a greater proportion of tenants as unfree, and clear evidence of disputes lost by peasants around the time the polyptych was compiled all suggest that the monastery had been able to sweep away resistance and tighten its grip on its dependent population significantly.⁶² Perhaps the leadership of Archbishop Hincmar of Reims, a man whose own natural inclination did not tend towards irenic compromise, may have had something to do with its success in this area.⁶³ By contrast, *coloni* are very prominent in the polyptych of St-Germain, and this proliferation could suggest that the monastery had had to engage in a fair bit of compromise when recording the legal status of its tenants, and could not very easily impose a fully unfree status on them. This polyptych also shows a proportionally greater tendency to list peasants as free on those estates that were geographically peripheral and/or fragmented, which would suggest that peasants in these areas had understood the importance of getting their status recognized under more favourable terms, and had been more successful in achieving this.⁶⁴

It seems likely, then, that the drawing up of a polyptych contributed strongly to imposing particular categories of legal status on the ground, both for persons and for land. The creation of a polyptych was a moment of intense definition and redefinition, and actively contributed to imposing the situation it purported to describe. In that sense, close wrangling brought about by new demands on the part of lords can make more sense of contrasts in the distribution and meaning of categories in

⁶¹ Charlemagne voiced the latter perspective in no uncertain terms, since it was in relation to a *colona* that he made his famous, highly classicizing statement 'there are only free men and slaves, and nothing beyond that'—including *coloni* among the latter (*non est amplius nisi liber et servus*, *Capitularia* I, no. 58, c. [1], p. 145; see Chapter 6, p. 241). Note these *coloni* were not related to late antique *coloni*: these had not been a status category properly speaking so much as free people in a situation of constraint (though even legislators at the time could consider this a rather fine distinction); see Introduction, pp. 4–5.

⁶² For Guérard, *Polyptyque de l'abbaye de Saint-Rémi*, p. XIV, *ingenui* in St-Rémi were equivalent to *coloni* in St-Germain (he thought *coloni* referred to *ingenui* living on *coloniae*, though he himself noted some inhabitants of *coloniae* were still listed as *ingenui* elsewhere in the polyptych). However, there are some *coloni* in St-Rémi polyptych—just very few of them.

⁶³ Barbier, 'Hincmar, the polyptych of St-Rémi and the slaves of Courtisols', on Hincmar's own likely attitudes in relation to the Courtisols case. Another explanation might be that the surveyors were using the category of freedmen, *liberti*, to express this kind of ambiguity instead—a phenomenon clearly attested by the eleventh century: see Chapter 3, n. 111.

⁶⁴ Sigoillot, 'Les *liberi homines* dans le polyptyque de Saint-Germain-des-Prés', p. 264. As Sigoillot notes, different surveyors could also adopt different approaches when it came to recording free statuses (p. 263).

different polyptychs than hypothetical longer-term processes, such as the loss of importance of personal status, or long-standing regional custom. How much negotiation was possible doubtless depended on the peasants' room for manoeuvre at the time the document was being drawn up, and how much clarity already existed regarding their condition. Polyptychs sometimes bear the mark of such negotiations. What they represent is not a snapshot of the distribution of legal statuses at a random moment, but an outcome on which the monastery's agents and its dependent peasants had been able to agree.

Disputes

Disputes themselves offer the most fruitful evidence for the mechanisms through which all this work of categorization and re-categorization was carried out on the ground. How were some peasants identified as weaker than others in practice, and how did this contribute to the attribution of an unfree status? Disputes, of course, played out differently depending on the aims of this type of claim. Some claims were put forward by lords essentially in order to appropriate land, since claiming someone as an unfree dependant also meant their land could not be their own, but a tenant holding. There are also examples where the claim was made as an opening gambit in order to obtain a gift of land—as in cases from Freising and St-Gall in which one member of a married couple was claimed as unfree, essentially in order to get their spouse to redeem them, or at the very least redeem themselves and their children, by giving up land they had hitherto owned outright, which they typically retained in benefice from then on until their death (and which their children in turn could then usually exploit as tenants).⁶⁵

Besides attracting more land into the orbit of religious institutions, claims of status could also constitute a medium through which to pursue conflicts between different landowners. Since claiming someone as unfree also meant withdrawing them from the authority of all others, debating over the status of peasants could become a useful proxy for debating rights over the land they lived on. This seems

⁶⁵ *Freising* I, no. 402 (818), pp. 346–7: a man is claimed as unfree (from a case settled in no. 401c); the father of his free wife brings a case claiming she should not lose rights to her own inheritance; Freising then 'finds' a document purporting to show the father had given them half of this land before anyway; the wife gives the land to Freising in exchange for retaining it in benefice, and also obtains that her children will also get to hold it in the service of Freising (on this case, see Hammer, 'The handmaid's tale', p. 346). *St-Gall* II, 447 (856), p. 65: a man, after his wife was claimed by the monastery's advocate, tried to save the free status of the two sons he had had by her, by transferring some land to St-Gall, which the sons were to hold securely for one *solidus* and four days' work a year. *St-Gall* II, no. 754 (908), p. 355: in exchange for marrying an unfree woman of the monastery, a man makes a gift of all he has, to retain in usufruct for his lifetime in exchange for a *census* of two chickens a year; if she was freed during his lifetime, she was to retain his property until she died as well, after which the property was to go to the monastery; if she was not freed (that is, if the monastery reneged on the deal), the man reserved the right to do whatever he liked with his inheritance. In *Passau* no. 50 (800 × 804), pp. 43–4, no counter-gift is mentioned in the document, though of course this does not mean none was given: although a man and his children were successfully claimed by the bishop Waldricus, his wife was acknowledged as having been born free, and given the right to continue to live with them as a free woman. For another claim of unfree status as a way of getting land as a compromise, see also *Formulae Augienses Coll. B* 23 (Zeumer, *Formulae*, p. 357).

to have become one of the main points of defining dependants as unfree in Francia in the central middle ages, with the dwindling of interest in large-scale demesne agriculture.⁶⁶ If favourable circumstances emerged, peasants could sometimes provoke or take advantage of this sort of conflict for their own ends, and play off one landowner against another, as in one formula in which the monastery of Murbach complained that, following the general confusion brought about by a conflict between Alamans and Alsations, some of their *mancipia* had claimed to be free and to be holding their lands as a benefice from the king, so that Murbach had ended up losing control of both land and dependants.⁶⁷ Making a concerted claim that the land belonged to the fisc was a particularly effective strategy in this case, since the royal officials responsible for ruling in court over matters of status also stood to gain from this claim.

More often than not, however, surviving cases from the ninth century seem to have been motivated by the desire to secure labour rather than land. Disputes over status only rarely dealt with unfree dependants who had physically removed themselves from an estate, or claimed that their land belonged to a different landowner; instead, most debates over status seem to have been a way of discussing or re-evaluating terms of tenure. Such disputes normally hinged on a claim that dependants had 'stopped' paying the dues and duties they ought to have been paying, or that they or their parents had paid in the past. It seems quite clear, however, that the majority of these disputes took place at a time when lords were seeking not just to maintain, but to expand their demands significantly—so that although the disputing process always made the argument look as if it was essentially about restoring a past situation, it was actually rather more likely to be about renegotiation in the present.

As we have seen, the variety of terms of tenancy, as well as the greater weight of the status of the land itself for determining dues and duties, made it quite difficult to tell who was free and who was unfree. Obtaining testimonies regarding the legal status of parents was the most common way of reaching a verdict on the status of the person under dispute. The importance of family connections as evidence is made chillingly clear in a capitulary of Charlemagne, which ruled on what should happen if a man who was being claimed as unfree killed any of his unfree relatives for fear of being tainted by association.⁶⁸ In practice, however, there is no reason to think that the status of parents would have been any easier to establish than that of the accused—particularly since in neither case could it have been very clear whether any dues and duties owed were so because of personal status, because of the status of their land, or because of the size and value of the holding and the

⁶⁶ Carrier, *Les usages de la servitude*, argues that the point of attributing unfree status in eleventh- and twelfth-century Burgundy was partly about defining relationships between lord and peasants, but even more about defining relationships between different lords—as a way of excluding outside authorities (especially for religious institutions, pp. 169–71) or, especially where there was a hierarchy of different overlapping layers of authority, as a way of privileging one lord above all other possible ones, and in turn asserting rights to the land the dependants were cultivating (pp. 171–80). The use of the status of dependants to establish clarity over who controlled land may explain the concern not to allow unfree dependants to inherit across different lordships: for one example, see Fouracre, 'Family and *familia*', pp. 265–6.

⁶⁷ *Formulae Morbacenses* 5 (Zeuver, *Formulae*, p. 331).

⁶⁸ *Capitularies* I, no. 39, c. 5.

particular arrangement they had entered with their lord, since burdens and duties were not consistent enough to constitute effective tests of status. The potential vagueness over the exact reason for dues and renders being what they were in each case left tenants' status relatively open to subsequent downwards re-evaluation.⁶⁹ Perhaps the main advantage of focusing on parents was in pushing the point that needed clearing up as far back into the past as possible, thus relying even more on memory—that is, what everyone could now agree to recall about it. Both of the main forms of proof used in status disputes, oath-helping and witnessing about parents' status, were essentially designed to gauge local consensus, and to allow the community to weigh in based on the needs of the moment.⁷⁰

It is striking how many such surviving disputes share the unpleasant trait of showing those peasants who were trying to defend themselves against an accusation of unfreedom being undone as a result of their neighbours' testimony. Of course, disputes where this happened were inherently more likely to survive, since religious institutions were not as likely to preserve a judgement that had not gone in their favour; but this lack of solidarity is nevertheless notable.⁷¹ One prime example is a famous case from 861, in which forty-one men and women from the villa of Mitry, accompanied by their children, came before Charles the Bald to complain that they were being unjustly subjected to 'inferior service', despite being, as they put it, 'free *coloni* by birth'.⁷² The villa of Mitry belonged to the abbey of St-Denis, which retaliated by bringing forward as witnesses another twenty-two *coloni* from the same place—that is, as many adult men as there were on the other side. The *coloni* presented by the abbot's side swore on relics that the claimants and their ancestors, far from being *coloni* like themselves, 'had always been *servi* in inferior service to the said villa, and did more work than *coloni* by right and by law, as is clear'. We can only guess at the background, but it seems unlikely that the plaintiffs were *servi* and that everyone knew it apart from them;

⁶⁹ For some examples, Rio, "Half-free" categories'.

⁷⁰ For examples from formularies: specifically mentioning parents' duties and status: *Formulae Andecavenses* 10; *Formulae Augienses Coll. B* 23; *Formulae Salicae Lindenbrogianae* 21; *Formulae Salicae Merkelianae* 32; *Cartae Senonicae* 20 (dealing with a *colonus*, but otherwise identical); *Formulae Imperiales* 9 and 51; *Formulae Senonenses recentiores* 2 (associated with an oath), 4 and 5 (dealing with a *colonus*). Other cases: *Formulae Salicae Merkelianae* 28; *Formulae Senonenses recentiores* 1 (dealing with a *colonus*) and 3. Zeumer, *Formulae*. For family precedent in the documentary record: *Passau* 52; also a diploma of Charles the Bald from 868 (Paris, Archives Nationales, K 7 no. 12/1; ARTEM no. 3031; Tessier, *Recueil des actes de Charles II le Chauve*, no. 314). See also below, n. 73. Outcomes were evidently varied, and it is hard to see any single principle at work, such as inheritance of status through the mother or from whichever party was of the lower status (on which see Voss, 'Der Grundsatz der "ärgeren Hand"').

⁷¹ Formularies, because they were preserved for the form of the document rather than because they recorded enduring rights, are somewhat more likely to preserve cases where the accused successfully defended themselves (see examples in n. 70). *Formulae Augienses Coll. B* 23 (p. 357) shows that, if the accused had enough backing, the community could also help to establish a compromise in cases of claims over status ('consideravimus cum consilio parentum vel ceterorum qui presentes fuerunt in mallo publico').

⁷² Archives nationales K 13, no. 7; ARTEM no. 3012; Tessier, *Recueil des actes de Charles II le Chauve*, no. 228; for comment, see Ganshof, 'La preuve dans le droit franc', pp. 81–2; Nelson, 'Dispute settlement in Carolingian West Francia', pp. 51–3; Nelson, *Charles the Bald*, pp. 62–3; Nelson, 'England and the continent in the ninth century: III', pp. 8–9; Devroey, 'Libres et non-libres sur les terres de Saint-Rémi', p. 71.

and since they were sure enough of their case to make the seventy-odd-kilometre trek to the royal palace at Compiègne in such numbers, it also seems unlikely that they were making a merely speculative claim, on the off-chance. A more plausible context would be that St-Denis was seeking to impose new, heavier duties on at least some of its *coloni*; that some of them made trouble by claiming that being *coloni* rather than *servi* meant that new duties could not be imposed upon them without their agreement; and that, in retaliation, the estate manager claimed them under the even more disadvantageous categorization of full unfreedom. The abbey may have managed to secure the cooperation as witnesses of other *coloni* by guaranteeing that their own duties would not be increased.

The *coloni* of Mitry, however much they may have protested that they were free, were more vulnerable to claims of unfreedom than *ingenui*, in that they shared important practical disabilities with *servi*—notably in their inability to leave their lands at will, which automatically reduced their bargaining power. Existing social weakness no doubt played quite an important role in identifying those tenants on an estate who were the least likely to be able to put up much of a fight. Claiming women, another perennially weaker kind of member of the estate community, may also have been comparatively easier for this reason, and particularly worthwhile if they had descendants.⁷³

Freedmen might also find themselves in a weak position, even though one might expect them to be claim-proof, since they should in principle have been able to produce a document of manumission. Even a written document, however, was no guarantee against a determined lord and unsupportive public opinion. In one case from 815, the abbey of Nouaillé claimed two brothers named Allafred and Allifred, accusing their father of having withdrawn from the service he had owed. The brothers presented a charter stating that their father had been freed, but the charter was somehow found to be ‘fake in every way’.⁷⁴ The record does not make it clear how the manumission document was shown to be a forgery: it simply says that the brothers could find no way to prove that it was genuine, and so had to recognize that they were in fact unfree. Presumably this was because nobody present was willing to acknowledge that they had ever heard of this document. Neighbours could contribute to a verdict passively, just by failing to turn up—as, apparently, happened with the closest associates of the several families on the estate of Courtisols that were successfully claimed as unfree by St-Rémi in the process of drawing up its polyptych; those who did turn up to the assembly seem to have been among the better off in the estate community.⁷⁵

⁷³ Grandmothers feature prominently in the case of Courtisols (see n. 75); see also *Formulae Merkelianae* no. 32, which is more or less *Formulae Bignonianae* 7, in which a woman and her descendants are claimed via her grandmother; she can find nothing to say to defend herself and so loses (Zeumer, *Formulae*).

⁷⁴ *Nouaillé* no. 10 (815), pp. 17–18. *Capitularia* I, no. 104, c. 5, deals with exactly this kind of problem, and shows how difficult it might be to get a written manumission to stand if no witnesses could be found to confirm it.

⁷⁵ Different interpretations of witnessing or absence of witnessing in status disputes are possible. Barbier, ‘Hincmar, the polyptych of St-Remi and the slaves of Courtisols’, cites the absence of witnesses as amounting to ‘passive resistance’ and a ‘tacit complicity’ of neighbours with the families

All this odious backstabbing by neighbours is not very attractive, but it does make sense in terms of the internal dynamic of an estate. If a lord required an increase in the net amount he extracted from an estate, as many lords did in the course of the late eighth and ninth centuries, determining how the burden was to be distributed would have been crucial. If all tenants were of an equal condition, the new burdens would be equally distributed. If, however, some could be categorized as having to do more as a direct result of their personal status, this would have been of obvious benefit to those *not* so categorized. It is important to bear in mind that peasants too could have a vested interest in the unequal distribution of labour duties. Precisely how labour duties were to be allocated, as opposed to how much labour overall could be extracted, probably mattered less to lords, though inequality in distribution may have presented advantages for them too, if differentiation in peasants' conditions had the effect of diminishing their scope for communal solidarity. A growing intensification in demands for labour service could give peasants a strong incentive to defend, or even to help establish anew, an internal hierarchy within the estate community. Categorizing more socially vulnerable tenants as unfree, thus making their labour in theory available to lords at will, would have helped to concentrate the increased demands on them, and allowed other, less vulnerable peasants a measure of protection.

Legal status, in this context, was an ideal proxy through which to fight over minute differences in internal estate hierarchy and the distribution of duties. While the connection between legal status and the quantity of labour owed was ordinarily tenuous and subsumed under individual arrangements—with personal status a low background hum drowned out by existing terms of land tenure—the two could, occasionally and in precise contexts, suddenly become much more tightly knit. Although disputes make it clear how little correlation might exist between working patterns and personal status, they also, simultaneously, show how much of the disputing process depended on everyone behaving as if such a correlation had always been in place and was perfectly transparent to all involved. But this was an artificial, tendentious connection: most of the time, in more routine, non-conflictual contexts, the relationship between status and labour, or status and dues, tended to remain very loose indeed. As long as demands remained relatively stable, existing tenurial arrangements applied and the categorization of personal status (as distinct from the categorization of the land held) could be left vague. Differences in status are likely to have come into play essentially at moments of particular stress on the peasant community, when lords tried to squeeze more revenue out of existing tenures. One cannot exclude, of course, the possibility that status also had some more diffuse, continuous effects in the everyday climate of the peasant com-

accused of unfreedom (pp. 218–20, with quotes at p. 220; see also p. 226, n. 52 on the associates of the accused); but it could equally well be a sign of lack of solidarity or unwillingness to testify to their free status. Devroey, 'Libres et non-libres sur les terres de Saint-Rémi', pp. 97–8, stresses the collective action involved in returning the recalcitrant *servi* to unfree status, with large-scale mobilization of the local community to attend assembly (p. 100: 'le système social vient brutalement donner du sens à la frontière entre libres et non-libres').

munity—for instance in terms of esteem and respectability.⁷⁶ The frequency of mixed marriages attested in polyptychs, however, suggests no sense of caste.⁷⁷ If the division of estate communities between free and unfree had a constant structural impact, it probably lay mainly, as Chris Wickham has argued, in limiting the scope for solidarity within the estate community, and therefore also the possibilities for communal action.⁷⁸

All this goes to show quite how much might be escaping our notice when all we have to go on are appurtenance lists in gifts and other documents of transfer, which all give the impression that legal status was something really quite straightforward—as well as not particularly crucial, since normally such lists tend to lump together people of all statuses, free as well as unfree, as part of the goods being transferred; this is what can give the impression that they were no longer really worth distinguishing in the first place. From the tenth century onwards, when labour duties on the demesne had become less crucial to lords' interests, we more or less return to this type of evidence, which means going back to having little or no access to the actual mechanisms of the labelling of dependants. The challenges involved in intensifying economic production and in the running of bipartite estates, by generating so much by way of written records, mean that we are allowed a brief glimpse, during the ninth century, of what might have been at stake for the peasant community at large, beyond the narrower, one-to-one relationship between lord and dependant. The results preserved both in polyptychs and in surviving dispute settlements did less to record a pre-existing situation than to enshrine a new local consensus hammered out between lords on the one hand, and, on the other, those peasants who found themselves in a better position to negotiate. The reliance on neighbours' testimony meant that the outcome of disputes over status reflected a result that both lord and community could live with. This realignment is likely to have involved, more often than not, the categorization of weaker members of the community under a less favourable status, making them bear the brunt of increased demands. To some extent, then, such processes of classification correspond not just to an exercise controlled by lords, but to a form of self-organization—though often with no kinder results than if it had been imposed wholesale from above.

NORTHERN ITALY

Labour duties extracted from tenants (*massarii*, who could be either free or unfree) are carefully listed in Italian polyptychs, generally dating from the late ninth and

⁷⁶ Kuchenbuch, 'Porcus donativus', pp. 206–7, notes dues are formulated differently in polyptychs (as gifts or as tribute) depending on whether tenants were free or unfree, and he suggests better-off dependants would have exerted pressure so that their dues might be represented in a more honourable light.

⁷⁷ On mixed marriages: Coleman, 'Medieval marriage characteristics'; Nelson, 'Family, gender and sexuality', pp. 157–9; Goetz, *Frauen im frühen Mittelalter*, pp. 263–7. See also Chapter 6, pp. 233–5.

⁷⁸ Wickham, *Framing the Early Middle Ages*, p. 561.

tenth centuries, so slightly later than Frankish ones.⁷⁹ The available evidence for bipartite estates (referred to in Italy as the *sistema curtense*), then, is certainly comparable; but Italian polyptychs, by and large, do not approach legal status in quite the same way.⁸⁰

Unambiguously unfree people feature most prominently in Italian polyptychs not on tenancies, but as prebendaries—that is, when documented as part of a directly exploited, full-time unfree labour force maintained directly from the demesne. Pierre Toubert distinguished schematically between three main groups of bipartite estates, each giving different weight to different types of dependant. The type with the smallest degree of articulation between tenancies and demesnes involved estates where the demesne was farmed mainly through extensive agriculture, such as pastoral activity. In this type of estate, very few demands were actually placed on tenants, and work on the demesne was instead fulfilled year-round by prebendaries (understood as slaves). The next level in the degree of articulation between demesne and tenancies involved estates dedicated to highly specialized production, like olive and vine cultivation; in this set-up, prebendaries would again have supplied year-round work, and *massarii* would have pitched in only at times of high demand, thereby falling under relatively light obligations. Finally, prebendaries were least important relative to *massarii* on estates chiefly dedicated to large-scale cereal cultivation, which come closest to the ‘classic’ bipartite model.⁸¹

Prebendaries have been traditionally characterized in the historiography as belonging to a more ‘archaic’ model, and their diminishing importance relative to tenants as reflecting the maturing of the bipartite system over time.⁸² The polyptych of Santa Giulia di Brescia, which dates from c.900, nevertheless records around 750 prebendaries on its demesnes, which certainly seems like a lot in comparison with anything found in Francia, though Toubert plays this number down in comparison with the 60,000 days of labour services per year drawn from tenant *massarii* on the same estates.⁸³ This reading assumes that prebendaries represent the last gasp of the large-scale direct exploitation of agricultural slaves in Italy, while tenancies are seen as the way of the future, expanding at the expense of the former. However, prebendaries, far from being an archaic feature, could equally well represent a new development in their own right, linked with economic intensification.⁸⁴ Larger cereal-growing demesnes, especially those supporting large

⁷⁹ Pasquali, ‘La corvée nei politici italiani dell’alto medioevo’. See also Panero, ‘Le corvées nelle campagne dell’Italia settentrionale’.

⁸⁰ *Inventari altomedievali*. See Panero, *Schiavi, servi e villani*, pp. 32–6, and pp. 42–3, n. 57 on the unfree in Italian polyptychs.

⁸¹ On these different types: Toubert, ‘Il sistema curtense’, pp. 18–22.

⁸² E.g. Toubert, ‘Il sistema curtense’, p. 19.

⁸³ Panero, *Schiavi, servi e villani*, pp. 57–64; Toubert, ‘Il sistema curtense’, pp. 21–2, sees them as a significant minority of the work force. Among other polyptychs listing prebendaries: San Tommaso di Reggio, Migliarina, St-Laurent d’Oulx (*Inventari altomedievali*). Wickham, *Framing the Early Middle Ages*, p. 300 on Bobbio and Santa Giulia di Brescia as atypical cases, given their role as Carolingian imperial monasteries, making them subject to greater Frankish influence.

⁸⁴ Wickham, *Framing the Early Middle Ages*, p. 301: ‘... the relatively large numbers of *prebendarii* seem to me to be a further step towards the intensification of labour in the period after 800, not any sort of survival from an earlier period.’ Verhulst, *The Carolingian Economy*, p. 43, similarly sees a

numbers of directly exploited prebendaries, may only have been sustainable if their labour needs could be supplemented through services extracted from tenants. If so, both the directly exploited workforce and the labour supply drawn from tenants would have been growing hand in hand, rather than being in competition with each other. The fact that unfree prebendaries only ever represent a minority of estate workers in Italian polyptychs may not be pointing, then, to a declining ancient-style slave population in the final stages of a slow process of attrition, but, instead, to the possibility that these were the maximum numbers of directly exploited people sustainable from the resources of the demesne alone. Since prebendaries seem to disappear altogether by the end of the tenth century, this would leave us with only a brief moment during which they were used—in other words, an experiment without particularly lasting structural consequences. This would also mean there would be no reason to think of them as a distinct, self-sustaining population bridging the gap from late antiquity, thus obviating the need to find much of an explanation for their disappearance, whether through low fertility or regular manumissions: this type of personnel could very well have been temporarily recruited from the ranks of unfree tenants in any case, as in Francia.⁸⁵

The polyptych evidence for legal status is usually much less specific when it comes to unfree tenants. Many Italian polyptychs make it very difficult to tell who among tenants was free and who was not, since they often use more vague or status-neutral terms, such as *manentes*, *massarii*, or *coloni*.⁸⁶ Generally speaking, the connection between status and labour duties seems very loose. On those occasions when information about status is given, for instance, it seems that some of the heaviest duties were sometimes imposed on explicitly free tenants. Although we can certainly tell that the heaviest labour duties were on balance more likely to fall on unfree than free tenants, this is a statistical correlation rather than a clear causal link—that is, it is unclear whether being listed under an unfree status in a polyptych should be seen as a cause or as a reflection of socio-economic weakness.⁸⁷

As Pasquali has noted, labour duties were not always aligned to the actual productive needs of the demesne. The number of labour-supplying tenants on some estates looks out of all proportion with the comparatively small size of their

greater reliance on prebendaries as a feature of the expansion of demesnes in a bipartite estate context. The same point applies to estates North of the Alps: e.g. the Staffelsee estate described in the *Brevium exempla*, *Capitularia* 1, no. 128, cc. 7–8 (810)—on which see Elmhäuser, 'Untersuchungen zum Staffelseer Urbar'.

⁸⁵ See Chapter 4, pp. 164–5.

⁸⁶ Panero, *Schiavi, servi e villani*, pp. 32–3; the polyptychs for Lucca tend to mention only *manentes* of unclear status, regardless of the weight of duties, some of which were very heavy (pp. 209–10). Bobbio inventories are similarly very vague on status. On *coloni* in documents from Farfa, see Costambeys, *Power and Patronage*, pp. 66–8.

⁸⁷ Pasquali, 'La corvée nei polittici italiani dell'alto medioevo', p. 114: unlimited labour duties, rare in any case, are sometimes restricted to *servi* (e.g. Santa Giulia's estate of Val Camonica), but sometimes they are assigned regardless of status. The first two Bobbio inventories, from 862 and 883, only talk of *massarii* and *livellarii*; unlimited duties there, when assigned, tend to fall on *massarii*, but occasionally also on unambiguously free *livellarii*. Similarly, labour services of three days a week, a common rate (p. 116), could be imposed on free tenants as well (pp. 117–19 for a statistical breakdown of labour services and their relationship with status).

demesnes, particularly in areas around lakes and cities—in contrast with cereal-growing estates, which tended to require more manpower. It may well be that, where they seem to exceed the needs of the demesne, labour duties were being used in order to achieve a more politically oriented dominance over territory, and especially over free people entering ties of dependence, rather than necessarily to achieve economic intensification.⁸⁸ What this still would not explain, however, is why descriptions of precisely those estates with an apparently generous, over-the-odds supply of manpower should also make much starker status distinctions between tenants, and identify a greater proportion of them as either free or unfree—whereas inventories of cereal-growing estates, where the match between labour force and demesne seems a lot tighter and less comfortable, are much less insistent on status, and more likely to categorize everyone as *manentes*.⁸⁹ This is more than a little puzzling, since it is more or less the reverse pattern from the one we saw in Francia, where status distinctions proved particularly fruitful in the context of increasing obligations and greater demand for labour services. One explanation would be to regard these polyptychs as merely recording long-standing status distinctions inherited through the generations.⁹⁰ Another possibility, however, would be that polyptychs record an excess of manpower on these estates because they were actually having difficulty obtaining it, and therefore laying claims to as many people as possible, using as many different arguments as possible, including that of status. Polyptychs, after all, are not just descriptions, but lists of demands: they usually describe the situation not as it was, but as the compiler thought it should be. Higher numbers of dependants than would seem needful or plausible, coupled with greater precision in attributing different legal statuses, thereby creating winners and losers, may well be papering over some highly conflictual situations, rather than simply recording a historic legacy.

To some extent, this hypothesis is borne out by the evidence of actual records of disputes, which survive in relatively large numbers from the Carolingian period, one assumes not coincidentally.⁹¹ Some of the most ferocious and long-running clashes among them, in fact, seem to have occurred in mountain and lake regions (Limonta, Val Trita), where polyptychs would lead us to expect to find the least pressure for manpower—which again suggests that they do not give us the whole story.⁹² Part of the point of these disputes, of course, may have been political as much as economic, as when great ecclesiastical lordships set about asserting their authority over areas which had hitherto been characterized by relatively independent peasant communities.⁹³

⁸⁸ Wickham, *Framing the Early Middle Ages*, pp. 295–9, makes the point that there is not all that much evidence for intensified exchange in Carolingian Northern Italy in any case.

⁸⁹ Pasquali, 'La corvée nei polittici italiani dell'alto medioevo', pp. 110–13.

⁹⁰ This is Pasquali's explanation: Pasquali, 'La corvée nei polittici italiani dell'alto medioevo', p. 113.

⁹¹ Panero, *Schiavi, servi e villani*, pp. 48–57; Albertoni, 'Law and the peasant'.

⁹² Some relate to the same places, as in the case of Limonta: *Inventori altomedievali*, pp. 17–26, and below, nn. 96–99, for the string of disputes.

⁹³ Balzaretto, 'The monastery of Sant'Ambrogio'.

While the aims of such disputes in Italy and in Francia (and the point of requiring labour services in the first place) may have been somewhat different, it is nevertheless clear that the techniques used in pursuing and settling them had a great deal in common. In Italy as in Francia, there was a very frequent reliance on circular and tendentious arguments connecting work and status, even though the link was most of the time very inconstant and tenuous. The inconsistency of the link between status and labour performed, as in Francia, made peasants vulnerable to downwards reclassification by aggressive landlords, particularly if they already lived under a disadvantageous legal condition (such as that of *aldii*, who were distinguished from the fully unfree not by lighter duties, but by the notion that these, whatever their extent, should not be increased⁹⁴).

This is exactly what happened in a famous string of disputes, lasting from 882 to the mid-tenth century or even later, pitting the monastery of Sant'Ambrogio in Milan against some peasants from the estate of Limonta, on Lake Como.⁹⁵ The original issue was not the peasants' legal status so much as whether or not they were obliged to collect and press olives from the monastery's olive groves, and transport the oil to the monastery. Although it was not about status at the start, however, it very quickly became so. In the original dispute from 882, the peasants acknowledged that they were *aldii* of the estate of Limonta, but claimed their ancestors had never had to deal with the olives, and so in principle neither should they. This much can still be made out, though the document was badly damaged at some point, and a copy made in the early tenth century—suspiciously close to the time of the later disputes. In that copy, the word *aldio* was simply replaced with *servus*, which had the effect of making the peasants say that they acknowledged being *servi* of the estate—which made their defence tactics seem rather strange, since the labour of *servi* was in theory available at will, so that it no longer much mattered what their ancestors had or had not done.⁹⁶ By July 905, near the time the copy was made, the peasants could now be found in court defending themselves against being *servi*; they lost their case.⁹⁷ Within five years the same group came all the way to Pavia to bring their case before the royal court, claiming once again that they were not *servi* but *aldii*; they lost that too on the basis of the earlier ruling.⁹⁸ The fact that the peasants continued to fight the obligation to produce olive oil after the original judgment from 882 had clearly motivated the monastery to claim them unambiguously as *servi*, as may also have happened to the recalcitrant *coloni* from Mitry.⁹⁹

⁹⁴ See Chapter 3, pp. 84–5.

⁹⁵ Castagnetti, 'Dominico e massaricio a Limonta'; Balzaretti, 'The Lands of Saint Ambrose', pp. 219–36; Balzaretti, 'The monastery of Sant'Ambrogio'. For a fuller account than is given here, see also Rio, 'Half-free' categories', pp. 141–4.

⁹⁶ Natale, *Museo diplomatico*, nos. 146 (damaged original) and 146a (copy).

⁹⁷ Manaresi, *Placiti* I, no. 117, pp. 431–6.

⁹⁸ Manaresi, *Placiti* I, no. 122, pp. 456–9.

⁹⁹ The defeat of the peasants was sealed in a further document from 957, in which some inhabitants of the same estate (this time described as *famuli*, a term perhaps chosen because it was neither *servus* nor *aldius*) threw themselves at the feet of the abbot, begging that 'our condition be written down, and that you recognize openly what we should do or pay by law according to ancient times' (Porro-Lambertenghi, *Codex diplomaticus langobardiae*, no. 625, cols. 1070–1073). Another document purporting to be from the early tenth-century sequence, but possibly a forgery from the late tenth century, shows the abbot finally agreeing to fix dues of peasants and never increase them in the

The abbey of San Vincenzo al Volturno pursued a similarly famous and even longer string of disputes, spanning a century, against some peasants from Val Trita.¹⁰⁰ The series shows a pattern similar to that used by Sant'Ambrogio in Limonta: in the initial dispute, dating from 779, the abbey had tried to impose labour duties upon hitherto more independent peasants (at this point simply described as 'men', *homines*), and met with considerable resistance. By the time of the following dispute, in 854 (though there had evidently been intervening ones as well), the abbey had changed tack to make the dispute hinge on the question of legal status. The case was settled when some local witnesses ('good and truthful men who knew the matter well') were brought forward and swore on the gospels that the accused and their parents were indeed *servi*, that they had performed labour duties, and furthermore that they used to be beaten by the monastery's agents whenever they had committed some wrong (none of which, as Feller has pointed out, exclusively denoted unfree status in any case¹⁰¹). By 872, the abbey was still experiencing considerable difficulty even getting the peasants to turn up in court; when fifty-eight of them did eventually attend, they denied again being unfree, and vouched to bring witnesses to testify to this; in the event, however, they were unable to find any, and had to admit to being *servi*.

In both cases, the fact that the disputes were so long-running suggests that Sant'Ambrogio and San Vincenzo were having trouble asserting their authority in practice, however many rulings in their favour they were able to collect.¹⁰² In both cases, it seems clear that the dispute only became about status in retaliation, when each institution faced resistance; the point was ultimately about the labour duties, as well as control over fairly remote estates. The question of legal status could be dropped just as quickly as it had been brought in, for instance, when a compromise was reached in which the lord agreed to back off the issue, provided the peasants agreed to perform the labour duties.¹⁰³

future, but only when they acknowledged both that they were indeed *servi* and also that they did have to collect olives. It was therefore paradoxically only when the peasants gave up fighting the claim that they were *servi* whose labour was disposable at will that the abbot agreed to fix their dues. Manaresi, *Placiti* I, falso II, pp. 605–8—on the arguments for and against forgery: Manaresi, 'Un placito falso per il monastero di S. Ambrogio di Milano' vs. Zagni, 'Note sulla documentazione arcivescovile Milanese del secolo X', pp. 17–24.

¹⁰⁰ The main documents in the series regarding legal status are *Chronicon Vulturnense* no. 23 (= Manaresi, *Placiti* I, no. 4) (779); *Chronicon Vulturnense* no. 72 (= Manaresi, *Placiti* I, no. 58) (854); also *Chronicon Vulturnense* no. 71 (= Manaresi, *Placiti* I, no. 72) (872). See Wickham, *Studi sulla società degli Appennini*, pp. 18–28; Panero, *Schiavi, servi e villani*, p. 51; Albertoni, 'Law and the peasant', pp. 437–42; Feller, *Les Abruzzes*, pp. 540–6.

¹⁰¹ Feller, *Les Abruzzes*, p. 543: 'aucun des traits concrets retenus par les témoins n'est spécifique de la condition servile rigoureusement définie'.

¹⁰² Feller, *Les Abruzzes*, p. 546.

¹⁰³ In a Trento dispute from 845 (Manaresi, *Placiti* I, no. 49, pp. 160–6), the issue was resolved by compromise after a long dispute: the peasants agreed to the labour duties, but retained their free status. In Piacenza in 832, as with Trento in 845, the dispute began with an initial accusation of unfreedom, but in the end the claim was given up once labour duties were agreed (Volpini, 'Placiti del "Regnum Italiae"', no. 1 (1 October 832); see also the edition reproduced in *Le carte private della cattedrale di Piacenza* I, no. 27 (1 October 832), pp. 75–8). Albertoni, 'Law and the peasant'.

The standard reliance on the testimony of local men in disputes over status meant that local hierarchies, here as in Francia, were crucial in the working out of legal status and could be harnessed by lords for this purpose, however much courts and laws may have insisted on the supposedly fixed and hereditary nature of status-groups. Witnesses loom large in all cases. In a document from 796, for instance, a dispute over the status of three brothers was decided by witnesses remembering that, on an occasion when someone had beaten up their father, the compensation had been paid not to himself but to the abbey, indicating that he was unfree.¹⁰⁴ As in the Val Trita case already discussed, the accused might also find it difficult to get any sympathetic witnesses to come to support them.¹⁰⁵ Some may even have been discouraged from making a claim at all by fear of their neighbours, as seems to be the case in a Lombard-era document already discussed in Chapter 3, recording the dispute between Toto and his freedman Lucius: the unnamed official in charge of the investigation had asked Lucius 'to tell me which men knew of his freedom, and I would enquire into it diligently myself; but he told me that there was no man who knew of his freedom'.¹⁰⁶ Lucius could evidently not count on solidarity from his neighbours, which makes sense in a context of increased demands, when, as in the Mitry case, it probably suited these neighbours very well for Lucius to be claimed as a *servus* and shoulder more of the extra burden. Although the official offered to call in the witnesses himself, Lucius clearly thought this would do no good. The fact that he did not even take the chance suggests he may have feared not only refusal, but also subsequent retaliation.

The strategy of using local testimony, however, had to be used deftly. When some men from the royal villa of Palazzolo came to court in Milan in May 900 to claim that they were free rather than *aldii*, they, like the Limonta disputants, said that they did not perform service *condicionaliter*, as a result of their personal status, but rather as a result of a lease agreement.¹⁰⁷ The dispute had arisen because these men owned lands elsewhere in their own right, and the royal representative, Adelgisus, was claiming that they should perform additional work for holding these too—on the understanding that they were unfree and that the land could therefore not belong to them. Adelgisus called forward witnesses from the same area, described as 'noble and credible'—by which we should probably understand

¹⁰⁴ For more disputes over status: Manaresi, *Placiti* I, no. 9 (796); no. 34 (822); no. 112 (901). For the Abbey of Novalesa vs. the men of Oulx in Val di Susa: Manaresi, *Placiti* I, no. 37 (827) and no. 89 (880). For a claim over a wife after her husband was successfully claimed as unfree: no. 34 (822). For a judicial duel to resolve a dispute over free status: *Codex diplomaticus Cajetanus* II, no. 100 (999) (= Manaresi, *Placiti* II, 1, no. 250), eventually settled by payment of a pound of gold; see Skinner, *Family Power*, pp. 254–5; Wickham, *Early Medieval Italy*, p. 152; D'Alessandro, 'Servi e liberi', p. 295, n. 15; Panero, *Schiavi, servi e villani*, p. 55. On the men with an 'origo remota omni libertate' who tried to escape the authority of San Vincenzo al Volturno: *D.Kar.* no. 159. Dispute over the *servus* Pertulus's rights to his land: Manaresi, *Placiti* I no. 109 (899), p. 405; *Chronicon Casauriense* fol. 122–122v; Feller, *Les Abruzzes*, pp. 547–8. *D.Ludwig II*, no. 8 (852), p. 79: 'unusquisque in suo ordine, liber in libertate, servus in servitute' (Panero, *Schiavi, servi e villani*, p. 296).

¹⁰⁵ R. Volpini, 'Placiti del "Regnum Italiae"', no. 5 (878–84). From 1080: Manaresi, *Placiti* III, no. 456, pp. 373–5.

¹⁰⁶ *Carte di famiglia* no. 4; = *ChLA* XXVIII, no. 847; *CDL* I, no. 81; see Chapter 3, pp. 84–5.

¹⁰⁷ Manaresi, *Placiti* I, no. 110.

well-off independent peasants, or members of the local elite. He obviously expected his witnesses to back him up, but in the event, in a *coup de théâtre* that must have been supremely embarrassing for Adelgisus, all of them came forward and said they knew the men involved to be free, born of a free mother and a free father, and to be holding their other lands freely. The peasants won their case. They were evidently more important locally than most of the people we have met so far, not least in that they owned land in their own right. In this case their better-off neighbours may have thought Adelgisus was pushing too far: if he was going after these people, he might try it on others; or perhaps, as an aggressive elite rival, they were more concerned with using this opportunity to cut him down to size. Managers of estates probably had to aim very carefully in order to be able to use status claims to defuse, rather than reinforce, local solidarities.

The Italian evidence suggests that the same basic techniques for establishing unfree status could be used to meet a number of different purposes: economic intensification, through the imposition of labour duties, or the consolidation of lordship, through laying claims to land or asserting dominance over the peasants inhabiting a given territory. Even when the emphasis on direct exploitation and labour services became less pronounced in the course of the central middle ages, lords seem to have continued to find it worthwhile to claim dependants under an unfree status—as the genealogies of unfree dependants which some religious institutions took care to have drawn up in the tenth and eleventh centuries suggest.¹⁰⁸ This could be to stake a claim to the land they lived on, or to make them pay dues in cash or in kind; or it could be simply about ensuring continuity in manpower by denying them the right to leave. In this sense, it was an eminently flexible instrument, transferrable to all kinds of different strategies.

ANGLO-SAXON ENGLAND

The idea that, whenever lords were dealing with large estate communities, unfree status is best understood as a medium for conflict and negotiation primarily aimed at obtaining something else (labour, land, or dominance) could help to make sense of one long-standing puzzle in the history of unfree status in England, which, like many other puzzles, comes out of Domesday Book. It has often been remarked that there are far fewer slaves recorded for 1086 than for 1066, and this has led many historians to conclude that the Norman conquest struck the final nail in the coffin of slavery in England. Unfortunately, Great Domesday only gives numbers for 1086, so that it is possible to compare directly the numbers of *servi* across the twenty years separating 1066 from 1086 only for some estates in the three counties

¹⁰⁸ For two genealogies of unfree dependents from Santa Fiore in Arezzo: Pasqui, *Documenti per la storia della città di Arezzo*, no. 292 (c.1070) and no. 293 (c.1100); on these two documents, see Luzzatto, *I servi nelle grandi proprietà ecclesiastiche italiane*, p. 45; Violante, 'Quelques caractéristiques des structures familiales', pp. 103–4, with family trees at pp. 135–7. On inventories of unfree dependants drawn up in Farfa during the eleventh century but sometimes relying on much older documents: Luzzatto, *I servi nelle grandi proprietà ecclesiastiche italiane*, pp. 30–41, especially pp. 34–5.

represented in the more detailed Little Domesday (Essex, Norfolk, and Suffolk).¹⁰⁹ These do suggest a noticeable decline in numbers. Essex has been discussed thoroughly by David Pelteret, who found a 25 per cent decline in the numbers of *servi* there, coupled with an increase in the number of people categorized as *bordarii* (another kind of grey-area term denoting a heavily subjected peasant).¹¹⁰ Pelteret interprets this as a very concrete change, and ascribes it to new forms of economic management linked to the arrival on the English scene of hungry Norman landlords who wanted to make the most of their new estates, with little regard for existing social organization and terminology. Norman landlords, in a bid to 'encourage the more intensive development of lands in return for rent', would have proactively manumitted large numbers of *servi*, thereby dealing a death-blow to slavery as an institution in England.¹¹¹ But while the case for change in practical conditions of life for free peasants may be more convincing,¹¹² in the case of unfree people this logic seems distinctly odd. The economic value of having free labourers as opposed to unfree ones is unclear, since there was after all nothing stopping Norman landlords from using their unfree dependants exactly as they wished, including by placing them on independent farms (as John Moore has shown, this was in fact the situation of many of the remaining *servi* in 1086).¹¹³

Economic intensification had already been taking place for some time in Anglo-Saxon England, but it seems the personal status of dependants did not become, as it did in Francia and Italy, a particularly important medium through which to impose new and heavier obligations—at least, that is, until the advent of twelfth- and thirteenth-century serfdom, when lords did belatedly become interested in it, and with a vengeance. Large estates in Anglo-Saxon England, by contrast, were organized according to a basic distinction between, on the one hand, 'inland', the inner part of the estate, worked by highly subjected dependants supplying labour, from which the landlord drew the essential part of his revenue; and 'warland', consisting of more peripheral farms populated by only very lightly burdened tenants, supplying occasional renders rather than labour duties. Effectively, warland tenants seem more akin to the tenants discussed for Wales and Ireland, and inland tenants more like the most subjected tenants found on the more intensively exploited large estates discussed in other sections of this chapter. As Faith has argued, it can be difficult in the case of the inland to see any clear-cut distinction between a household dependant pitching in as required and a very oppressed tenant only given the absolute minimum amount of land necessary to support himself from day to day, with all further work capacity mobilized towards producing a surplus on the lord's own land.¹¹⁴

¹⁰⁹ Darby, *Domesday England*, p. 73.

¹¹⁰ Pelteret, *Slavery in Early Mediaeval England*, pp. 205–13. The Essex example had been used by Maitland, *Domesday Book and Beyond*, pp. 35–6, and the point about *bordarii* made by Round, 'Introduction to the Essex Domesday', pp. 362–3.

¹¹¹ Pelteret, *Slavery in Early Mediaeval England*, pp. 209–13, with quote at p. 234.

¹¹² A point emphasized in Faith, *The English Peasantry and the Growth of Lordship*.

¹¹³ Moore, 'Domesday slavery', pp. 214–15; see Chapter 4, p. 171.

¹¹⁴ Faith, *The English Peasantry and the Growth of Lordship*, pp. 60 and 69–70; she notably sees slaves and *servi casati* ending up mainly on the inland. Basing himself partly on Faith's work, Jairus

Economic intensification ('manorialization') in England thus seems, unlike in most other European regions, to have been based not on the categorization of tenants, but overwhelmingly on the categorization of land alone—that is, the growth of inland at the expense of warland. The possibilities for growth of the inland would have depended directly on lords' organizational capacities, and Faith argues that the balance shifted quite late, so that until well into the central middle ages Anglo-Saxon England should still be counted as a region with relatively undeveloped means of exploitation of most tenants. Lords' tightening of their control over peasants would thus have been a very slow process, and, according to Faith, one that was not really complete until the twelfth century (Wickham dates the tipping-point towards a more oppressive style of lordship earlier, c.900).¹¹⁵ Either way, this intensification seems not to have had very much to do with unfree status, since not all inland inhabitants were unfree; their greater subjection had more to do with their particular conditions of tenure, and with socio-economic weakness, but it seems lords did not take the opportunity, as on the Continent, to translate these weaknesses into a claim of personal unfreedom (as they would later, from the twelfth century). All this suggests that economic intensification and greater exploitation, at least at the level of the large estate, did not connect at all closely with considerations of legal status.¹¹⁶

It would be surprising, given this context, if a desire for economic intensification had very much to do with the decision to manumit anyone, let alone in the numbers imagined for the period between 1066 and 1086. If one assigns to the incoming Norman elite a proactive role in the decline in the numbers of slaves between 1066 and 1086, this would leave them in the fairly atypical situation, at least among notoriously rapacious and cash-hungry incoming conquerors, in having chosen to make their dependants juridically more free rather than less, when this would seem to have brought them no clear economic benefit.

What Norman lords did have to do, on the other hand, was assert control over their new possessions, quickly, and on all of their estates at once, in order to ensure continuity in revenue (by then probably still essentially drawn from the inland). This would have been a highly challenging logistical situation, and all the more so the more hopeful they were of obtaining substantial revenues in the short term, without engaging in protracted legal wrangles. In this sense, avoiding peasant resistance may have been far more urgent a problem than Anglo-Saxon elite resistance. The new landlords must have had to make quite a lot of new deals in the

Banaji has extended this to the rest of Europe, and imagines a much more intensively exploited 'proletarian' workforce from very early on in the early middle ages (Banaji, 'What kind of transition', pp. 124–9)—though there is very little to support such a generalization (certainly not the appurtenance clauses cited, which tell us nothing about socio-economic position one way or the other). There is little concrete evidence for such highly intensive levels of supervision, and even in England this is certainly not how most tenants were exploited.

¹¹⁵ Wickham, *Framing the Early Middle Ages*, pp. 349–50.

¹¹⁶ The *Rectitudines singularum personarum* do distinguish between free dependants and slaves, but the distinction is subordinated to function (Pelteret, *Slavery in Early Mediaeval England*, pp. 172–8); this is in any case a highly schematic, prescriptive text (warning against relying on it too much, Faith, *The English Peasantry and the Growth of Lordship*, p. 59).

process; and given the probable necessity for negotiation, it would have made sense for them to be readier to cede ground on matters of personal status, which probably mattered far more to peasants socially than it did to lords economically, rather than ceding ground on dues and duties. There is no sign that the latter became lower; if anything, rather the contrary. A background of new landlords settling in and having to assert control in all sorts of places at once, rather than economic intensification in general or a bold new approach to land management, would also make better sense of the fact that royal and church estates, where new deals did not have to be negotiated from scratch with all dependants at once, tend to show far less of a drop in the proportion of unfree people between 1066 and 1086.¹¹⁷

This explanation would have the virtue of not requiring us to imagine the Norman elite engaging in a pious manumission spree as a matter of priority straight after moving in to their new possessions: the process would not have required formal manumission, but simply a failure to make active claims over their tenants' status in disputes. All they would have needed to do was, quite simply, nothing: it would have been enough for them not to insist on unfree status, and to let status slide uncontested, in order to result in substantially lower numbers of unfree people. (Since Normandy was a land of servile burdens without servile people, they would have been used to the notion that people could be squeezed equally hard regardless.¹¹⁸) In practice, of course, the fact that these tenants' newly free status did not come with any different conditions of life was precisely what would allow many of their descendants to be redefined as unfree in the twelfth and thirteenth centuries; but that would be done on the basis of very different techniques of categorization.

CONCLUSION

The attribution of legal status in large estate communities was the object of regular conflict and renegotiation. The growing intensification of demands placed by lords on all tenants, far from making the distinction between free and unfree increasingly irrelevant, could lend a new urgency, and new stakes, to such conflicts. All this points to the relative unhelpfulness of concentrating on inheritance as the major driving force for the reproduction of unfree status during this period.¹¹⁹ Although constant appeals were made by both lords and dependants, in order to bolster their arguments in disputes, to the principle of the biological reproduction of status from parent to child, this was probably less determinant in dictating the outcome of conflicts than the particular state of play of power relations in the here and now.

¹¹⁷ Pelteret, *Slavery in Early Mediaeval England*, p. 205.

¹¹⁸ In Normandy, *formariage* and *mainmorte* as well as the possibility of arbitrary labour duties had already been levied for a long time without being framed in terms of personal status: Musset, 'Reflexions autour du problème de servage et de l'esclavage en Normandie ducale'; Arnoux, '*Rustici et homines liberi*'; Angers, 'La Normandie à la fin du Moyen Âge'.

¹¹⁹ For the most sustained argument positing automatic, even unconscious continuity, Bloch, '*Les colliberti*'. On the earlier historiography of *colliberti*, see Panero, 'Il tema dei colliberti medievali'.

Even when no formal dispute took place, we should not assume that there was anything natural or easy about the reproduction of status categories. There was nothing simple about inheritance at any social level during the early middle ages; any handing down of attributes and properties across the generations required an active effort. It did not take a manumission for people to move out of unfree status: since most disputes during this period relied on living memory (bolstered, in many areas, by a thirty-year statute of limitations on claims over property and status), it would only have required a failure, for a long enough period of time, to reassert rights explicitly over unfree dependants. The present-leaning quality of all of the main modes of proof used in status disputes throughout this period meant that the attribution of unfree status was subject to highly variable considerations, such as the changing demands of lords and the trajectories of different peasant families within the estate hierarchy. Unfree status is likely to have been a recurring battleground, and something that needed to be defended against or reasserted periodically, whenever lords sought to up their demands or change the basis for their allocation. The shape and size of the unfree population at any given time during the early middle ages was the product of ongoing, highly localized conflicts, occasionally flaring up into dispute, and determined by attempts at enforcement made by every generation of lord and resisted by every generation of peasant.

For lords, unfree status was essentially an argument worth putting into play when they wanted to increase their demands for labour duties, especially when they met with resistance: for them, at least in the context of large estates, unfreedom therefore fulfilled a rather narrow set of functions. For peasants, it could fall into more varied sets of concerns—labour as well, of course, but also internal social hierarchy within the estate community. In the course of conversations conducted from such different perspectives, the link between legal status and more concrete socio-economic considerations could be turned on or off at will. Sometimes socio-economic subjection might be used as evidence for unfree status, on the understanding that the two scales should match; sometimes, on the contrary, the two could be contrasted and used to make trade-offs—for instance when peasants agreed to perform labour duties on condition that they would *not* be defined as unfree, as in some Italian disputes, in some Frankish polyptychs, and perhaps also when Norman lords sought to assert their dominance over the peasant populations of their new estates.¹²⁰

Peasants, depending on the level of internal hierarchization within their local community, could play as instrumental a role in bolstering the boundary between freedom and unfreedom, or in blurring it, as lords did. Lords, their dependants, and their dependants' neighbours sometimes negotiated, sometimes clashed, and sometimes cooperated in determining what place in the hierarchy each individual or group was to occupy; either way, they all had a stake in it. Inequalities in legal status, then, were far from being only of interest to lords. This explains how status categories could have retained so much relevance outside the context of a technical

¹²⁰ On trade-offs in relation to individuals, see Chapter 2, pp. 73–4.

understanding of law: early medieval people's use of these categories may not have been technical, but it was nothing if not pragmatic.

This spread of competing interests and perspectives on unfree status is the reason why, in regions where the bipartite model existed, the people whom lords seem to have spent the most effort labelling as unfree, and also those who seem to have protested most strenuously against being so labelled, were precisely those for whom this legal label led to the least obviously slave-like conditions of life. It is also why early medieval people, who often did not bother using different terminology to distinguish between people who were clearly different from each other (for instance between an unfree tenant head of household and his bought farmhand with no independent rights), *did* use it to distinguish between people who, to us, look virtually identical.

If unfree status in this period looks incoherent to us, it is not because contemporaries were confused about it, or because it had lost its significance; it is because it had become instrumentalized as part of a wide range of different strategies by different sorts of people, all of whom used it to achieve quite fine levels of differentiation. That is why the sum of instances in which particular terms were used does not amount to a coherent picture of what a *servus* or a *mancipium* was: particular cases in which these words were deployed have no cumulative value. Their meaning was situational: rather than corresponding to an absolute, abstract definition, they provided a grid in which different parties could fit their claims and experience.

PART III

THE INSTITUTIONAL FRAMEWORK: CONTINUITY AND CHANGE

6

Rights and Duties

So far this book has approached unfree status as a flexible instrument, deployable as part of a wide range of strategies. Part I has dealt with what drew particular individuals into or out of an unfree status; Part II with more collaborative, shared strategies for using unfreedom as a means of managing economic exploitation as well as internal social hierarchization at the levels of the single household or estate community. I now turn to a more general level still, to look at how such strategies might have been both reflected in and facilitated by rules and concepts—in other words, unfree status as an institution. By ‘institution’ I do not mean anything more formal than sets of rules that influenced the strategies of individual agents, and that were in turn produced, shaped, and instrumentalized by them. The formal rules issued in secular laws or church canons are the most obvious examples, and this is where I will start. Lords, however, could produce their own kind of normativity—more akin to ‘rules of thumb’, but nonetheless also resulting in some common expectations regarding the rights and duties attached to the unfree. All in their different ways contributed to the production of norms about, and understandings of, early medieval unfreedom.

The point of placing this discussion at the end of the book, as a concluding chapter, is to take such institutional aspects not as a starting point (much less a cause) for the practices of individual agents, but more as an outcome of such practices. Rules and concepts did not simply provide a framework or set of constraints within which individual agents had to operate; they should also be understood in the light of such practices, and of the new and emergent needs they were being used to meet. This is an important line of questioning despite the apparently static quality of most rules about slavery throughout the early middle ages, and their constant reference to late antique precedents, whether drawn from the Roman legal tradition or from early church councils. Even word-for-word, identical statements might take on very different meanings depending on the changed contexts in which they were being made. Gaius in the second-century Roman Empire, Charlemagne in ninth-century Francia, and the author of the treatise known as ‘Bracton’ in thirteenth-century England may all have stated that ‘all men are either free or slaves’, but (as we shall see) they each meant really quite different things by it.¹

¹ Gaius, *Institutes*; *Capitularia* I, no. 58; ‘Bracton’, *De legibus*, vol. 2, p. 29. The same principle was also repeated in the mid-thirteenth-century Old French *Li livres de justice et de plet*, p. 54 (‘tot homes ou il sont franc ou serf’). Beaumanoir, *Coutumes de Beauvaisis* 1452.

Rules relevant to unfree status were produced throughout the period by several types of agent, who tend to be broadly grouped in the historiography under the headings of 'state', 'Church', and 'private lordship'. These are the stuff of metanarrative: of Christian humanitarian reform, or of feudal revolution, depending on whether one envisages the transition from slavery to serfdom as the outcome of a tension between religious and secular, or between public and private interests. Some otherwise quite separate branches of the historiography share the view that slavery in the 'ancient' mould would have met its demise through the triumph of one of these parties—that is, once everyone, free or unfree, had become subjected to the same single overarching authority, transcending the power of masters. Each of these various sources of authority has been cited at one point or another as having achieved this victory: the state in Byzantium; private lords in the West; the Church in either.²

There has been a general trend towards the de-institutionalization of all of these entities, and doubts have been raised over whether such a thing as either 'Church' or 'state' could really be said to have existed before the eleventh century (for the Church) or the twelfth (for the state). Many early medievalists now prefer to talk about kings and churches, or perhaps bishops, rather than placing them at the helm of any very definite or coherent institution.³ It is equally difficult to see lords as an institution: *lordship* traditionally used to be thought of as such, when framed in a 'feudal' context, but this institutional version of lordship is now also considered by many to be an unhelpfully rigid way of looking at it for the period before the thirteenth century.⁴ It is certainly not my intention to re-institutionalize any of these here; rather, the point is to see how all these diverse yet overlapping perspectives and priorities, which between them cover most sources and conduits of power during this period, collaborated in shaping institutional frameworks for unfreedom.

Quite distinct motives and tendencies tend to be ascribed to each of them. For instance, the Church has tended to be seen as a force for change; the state, at least in the Latin West, more as a force for conservatism. Their respective waxing and waning have been privileged as the main motors of either continuity or change in the historiography. The growth of Christianity often features, especially in slightly older literature, as leading to an improvement in the treatment of slaves, and is typically credited with innovations such as extending to the unfree the right to family and to a Christian marriage. By insisting on the common humanity of

² On Byzantium: Rotman, *Les esclaves et l'esclavage*, pp. 185–94 on the Church, and pp. 232–7 on the state promoting the end of slavery; on the Church in the West: Hoffmann, 'Kirche und Sklaverei'. Private lords: Bloch, 'Comment et pourquoi', pp. 43–4; Duby, *La société*, pp. 89–98.

³ The state, if anything, now retains more supporters than does the Church. The Carolingians tend to have a state according to French historiography, but not in German historiography; see Airlie, 'The aristocracy in the service of the state'. More generally for the anglophone take on the 'medieval state', see Davies, 'The medieval state: the tyranny of a concept?' (against) and Reynolds, 'There were states in medieval Europe: a response to Rees Davies' (in favour).

⁴ Brown, 'Tyranny of a construct', and Reynolds, *Fiefs and Vassals*. Most recently and in a different way, West, 'Lordship in ninth-century Francia', calling for an end to the use of the words 'lord' and 'lordship' for the early middle ages in favour of 'patronage'.

slaves and masters, Christianity would thus have played a role (not necessarily a starring one, but a role nonetheless) in chipping away at the ideology of Roman slavery and encouraging its replacement with serfdom.⁵ The argument that Christianity brought slaves a sense of humanity, however, stems to some extent from a misunderstanding of the Roman tradition, since Roman jurists from the second century AD, if not earlier, had already recognized slaves as fully human beings—just extremely unlucky ones.⁶ Another strand of modern commentary goes to the opposite extreme, and berates the early medieval Church for having done nothing to oppose slavery, and indeed, as a landowner, for being an extremely substantial slave-owner in its own right.⁷ As we shall see, the early medieval Church was really neither so good nor so bad as these evaluations suggest: while it never opposed slavery fundamentally, it *was* concerned that it should not be incompatible with salvation or living a Christian life.

The state, by contrast, has been presented as the only power capable of keeping in place a strong divide between free and unfree—a divide seen as threatened by private lords perpetually bent on oppressing all of their dependants equally, regardless of status. According to this view, the darker side of the state's protection of the free would have been its continuing insistence on the subjection of the unfree. This approach is particularly associated with the branch of the literature known as feudal mutationism, according to which the nadir of state power in the eleventh century was responsible for the final advent of serfdom, as a result of the growing lack of differentiation between free and unfree peasants.⁸

Identifying such fundamental distinctions between the aims of these different types of agent, however, is empirically quite difficult to do. It is certainly misleading to see state and Church as being in any kind of structural opposition to each other, or indeed to lords. The extent of overlap between the three would make this implausible from the start: churches, after all, were also lords, and sometimes among the wealthiest and most powerful of them all; royal agents and personnel were drawn from the ranks of both private lords and churchmen, and kings issued rules and decisions in consultation with, and for the benefit of, both of these constituencies. It is extremely difficult, and not particularly helpful, to separate secular legislation from church conciliar activity in Visigothic Spain, Carolingian Francia, or later Anglo-Saxon England, not least because great churchmen often had a hand in drafting royal legislation—for instance Alcuin and Theodulf under Charlemagne;

⁵ Even Bloch, 'Comment et pourquoi', pp. 37–41. More recently, arguments lending Christianity an important role have tended to follow Bloch in stressing that this role was indirect or inadvertent, rather than militant: Hoffmann, 'Kirche und Sklaverei'; Samson, 'The end of slavery'; Pelteret, *Slavery in Early Mediaeval England*, for devotion as a key factor for manumissions. For a more traditional restatement of the argument lending a key role to the Church, see also Bondue, *De servus à servus*, p. 492.

⁶ E.g. Florentinus (Justinian, *Digest* 1.5.4.1); Ulpian (*Digest* 50.17.32): 'According to natural law all men are equal.' More generally, see Garnsey, *Ideas of Slavery*. The experience of slavery itself, on the other hand, might be seen as deeply corrupting: Mouritsen, *The Freedman in the Roman World*, pp. 3–4.

⁷ For an early example: Pijper, 'The Christian Church and slavery'.

⁸ For an embryonic version of this argument, see Bloch, 'Comment et pourquoi', p. 162; it is a position classically associated with the Duby school: Duby, *La société*; Poly and Bournazel, *La mutation féodale*; above all Bonnassie, 'Survie et extinction'.

Hincmar under Charles the Bald; Wulfstan of York under Aethelred and Cnut. Rather than thinking in terms of polarized interest groups, it is probably more appropriate to think in terms of different genres of rule-making, each with different aims and contexts. I will focus on the intersection of these various perspectives, to try to see how they interacted with one another to produce new rules, or new uses and meanings for old ones. Each of them gives us a partial view of a wider nexus of ideas, likely to have been quite widely shared across the full spectrum of religious men, royal agents, and private lords alike.

I will use the theme of unfree marriage as my starting point. I chose it because it had very concrete stakes, as well as major implications for many, if not most, other relevant areas of normative engagement with unfree status: religious rights and duties; the reproduction of legal categories; and rights to family, property, and inheritance. Another reason for choosing it is that early medieval rules dealing with it seem at first sight even more contradictory than those dealing with most other aspects of unfreedom during this period: one gets a very different impression of historical change or continuity on this topic depending on whether one is reading, say, penitentials, secular laws, or the assumptions with which lords and their dependants seem to have operated. Thinking through the logic of production of such apparently contradictory rules will help to identify the core concerns of each genre of rule-making, and account for their very different ways of reflecting, or failing to reflect, social change.

RELIGIOUS RIGHTS AND DUTIES

Religious rules relating to unfree marriage reflect a fundamental tension. On the one hand, they show a clear desire to make available to all Christians the sexual discipline required to achieve salvation: not doing so would have amounted to accepting the unacceptable, namely the idea that there were some people to whom the Christian message might not apply. At the same time, churchmen were also wary of attributing the full dignity of Christian marriage to relationships with such dangerously informal and ephemeral connotations. Unfree unions could not be signified through the same symbols as free marriage (for instance through a transfer of property), and since they were also less likely to involve kin groups with a strong vested interest in them, there was also much less social pressure driving them towards permanence.⁹ As a result, they could be so easily jeopardized by the actions of owners, or indeed of the couples themselves, as to risk devaluing the solemnity and seriousness of the commitment involved in Christian marriage.¹⁰

⁹ On the pressures keeping free married couples together, see Nelson and Rio, 'Women and laws', pp. 109–10.

¹⁰ On the definition of marriage as rather labile during the early middle ages, and its recognition largely dependent on the social and/or legal status of the woman in the couple, see Karras, 'Myth of Friedelehe'. Churchmen, however, were typically much more interested than other people in sorting out 'proper' marriage from other types of relationship, especially during the Carolingian period (the *cause célèbre* here is the divorce of Lothar II: Heidecker, *The Divorce of Lothar II*).

The different answers given to this problem, at first sight, could suggest progress over time, tending towards ever-greater recognition of unfree marriage. A closer look, however, suggests instead a gradual intensification in the minds of churchmen of the importance of *both* sets of concerns, ultimately leaving the core tension more or less intact. Even in the Carolingian period, bishops and other religious figures continued to handle this issue surprisingly gingerly—even as they were hardening the regulation of free marriage and imposing ever higher expectations upon it.

The Fourth Council of Orléans, held in 541, had been unambiguous in its rejection of the notion that *servi* had any right to contract marriages independently of the will of their master.¹¹ The assembled bishops took an especially dim view of those who, in the hope of getting their unions recognized, sought sanctuary in a church, ‘as if a marriage could ever come about in this way’. This sort of thing, the bishops said, did not amount to a legal union, but to a form of pollution, which, far from warranting sanctuary, ought to be punished by exclusion from communion for a set period of time. Priests faced with a situation of this type should try to get the couple to agree to separate, persuade the owner to forgive them, and return them to where they belonged. The owner could decide after that, at his own discretion, whether or not he was willing to let them marry. Just such a situation was envisaged in a sad story narrated a few decades later by Gregory of Tours: when two unfree lovers who belonged to the *dux* Rauching fled to a church in order to marry, the local priest refused to return them until Rauching had agreed to let them stay together. The latter, however, stuck to the letter rather than the spirit of the deal by having them both buried alive in the same coffin.¹² Even as early as the late sixth century, then, it seemed plausible that a churchman might be willing to use his local clout in order to obtain recognition for the marriage vows of *servi* who had fled to his church; but the story makes it equally clear that there was little that anyone could do to force owners to grant such recognition.

Even those councils that issued rules more sympathetic to unfree marriage show a remarkable unwillingness to force the issue. A capitulary recording decisions taken at a synod of bishops at Verberie in 756, under the reign of Pippin, ruled that if a married unfree couple were split up as a result of the sale of one of the spouses and could not be reunited, they should be encouraged to ‘remain as they were’ and make their peace with the situation. Unlike in many other clauses in this series, the bishops did not mention whether or not the spouses might remarry after their separation—perhaps because it was assumed this would be up to their owner in any case.¹³ The same synod shows that the lower the position of the woman in particular, the less formal the union, even within the already informal context of unfree relationships: ‘if a *servus* has his *ancilla* as a concubine, if it pleases him, he can, having discarded her, marry his equal (*compar*), the *ancilla* of his master; but it is better if he keeps his *ancilla*.’¹⁴

¹¹ Council of Orléans IV (541), c. 24 (*Canons mérovingiens* I, pp. 278–80).

¹² Gregory of Tours, *Historiae* V, 3.

¹³ *Capitularia* I, no. 16, c. 19, p. 41.

¹⁴ *Capitularia* I, no. 16, c. 7. As soon as both partners were freed, however, a much stronger interpretation of the relationship immediately kicked in, along with the expectation of indissolubility: no. 16, c. 20; see also *Capitularia* II, no. 252, c. 38.

In contrast with the synod of Verberie, the bishops and abbots who met at the council of Chalon in 813 took the firm view that unfree spouses ought never to be separated by sale, regardless of whether the spouses had the same master or two different ones, citing the scriptural injunction ‘What therefore God hath joined together, let no man put asunder’ (Matthew 19:6).¹⁵ This is the strongest statement made in defence of unfree people’s right to marriage ever made in the Carolingian period, but it was itself deliberately qualified by the stipulation that the marriage had to have been ‘lawful’ (*legalis*), by which the bishops meant it had to have been conducted with the assent of the owner or owners—no doubt once again out of a concern to avoid any sense of confusion between Christian marriage, which churches ought to step in to defend, and more informal or socially unrecognized and devalued unions.

This concern not to extend Christian marriage as a blank cheque to protect more informal relationships may explain why every attempt to enhance the stability of unfree marriage seems also to have come with added restrictions in the definition of what sorts of unfree relationship should count as ‘lawful’ marriage. Regino of Prüm’s *De synodalibus causis*, from the beginning of the tenth century, offers another example of the sort of twisting and turning involved in coming to terms with this issue. After citing the clause from the council of Verberie discussing separation in case of sale, he went on to cite Roman law, which he claimed was superior in that it ruled against the splitting up of families of *servi* in cases of division of inheritance.¹⁶ He added that the husband should never be bought or sold without the wife and vice versa—provided, that is, they belonged to the same master: here Regino chooses to introduce the bizarre claim that marriage between a *servus* and an *ancilla* belonging to different masters was *always* invalid, and counted as adultery (even, apparently, if both masters had agreed to it).¹⁷ This was a severely limiting clause, and one without an obvious source: this may have been the only way Regino could think of to square the circle, and to avoid making one owner dependent, for the ability to sell or otherwise dispose of one member of a couple, on a different owner’s willingness to sell the spouse as well.

This consciousness of the special vulnerability of unfree marriage, and the sense that this made it different from a ‘real’ marriage, also comes through in hagiographical sources. Saints’ lives sometimes deal with holy persons who became unfree for a time, and who during that time had to make considerable efforts to *avoid* getting married. Curiously, unfree marriage, not the inability to get married, was what was being presented as the key source of sexual danger for them. The future queen Balthild, for instance, famously had to hide herself under piles of rags to avoid her

¹⁵ MGH *Concilia* II, 1, no. 37, c. 30, p. 279.

¹⁶ *Lex Romana Visigothorum* II, 25 Interpretatio (p. 64). On late Roman laws on the marriage of slaves: Kuefler, ‘The marriage revolution in late antiquity’, pp. 359–62; Evans-Grubbs, *Law and Family in Late Antiquity*, pp. 62–3, 307–9. In general, the only kind of unfree marriage that Roman law was interested in issuing general rules about was mixed-status marriage, much as in the barbarian law-codes.

¹⁷ Regino of Prüm, *Libri duo de synodalibus causis* II, c. 121–2, pp. 261–2. He claims that this was *lex*, but marriage between slaves belonging to different masters was not even forbidden in Salic law, which is one of the most restrictive of the barbarian codes when it comes to slaves (*Pactus Legis Salicae* 25, 7 only ruled against marriage against the wishes of the *ancilla*’s owner).

master Erchinoald after he decided to marry her following the death of his wife.¹⁸ Erchinoald found himself another wife. Balthild herself, once freed, went on to marry the Merovingian king, so the point was clearly not against marriage per se; what the hagiographer wanted to show her resisting, rather, was an ambiguous type of marriage that was uncomfortably close to an informal master–*ancilla* relationship. The prospect of marriage to her master, clearly, was sufficient in and of itself to lend the whole episode an atmosphere of risk and drama.

Marriage also features as a problem to overcome in the story of a pious old man who was enslaved and sold to a godless Thuringian lord in the *Life* of Saint Emmeram. His new lord tried to get him to marry a young unfree widow and to settle him on her late husband's tenant farm, but this would have made him bigamous, since he had already been a married man before his capture and enslavement. His lord overruled his objections, taking his refusal to marry as a sign that he meant to escape and threatening to sell him to pagan Saxons, until all that he could do was to go through with the marriage and avoid consummating it. The description of the wedding itself is equivocal: it insists on adherence to formal rituals, but at the same time the assembly consists only of the lord's own household—his family and his other unfree dependants—thus denying it the sort of publicity associated with the firmer social commitment of free marriage, of which it comes across as an imperfect imitation:

Forced by necessity, he agreed to be married according to the will of his lord. And [his lord], having taken the woman's right hand and wrapped a mantle around her, as the custom of marriage requires, with a happy face gave her to him in marriage in front of his fellow-slaves (*conservi*), and [the lord's] own wife and children; for he loved him beyond measure for his artful skill.¹⁹

The problem with unfree marriage in both of these narratives was that it was not capable of signifying the required level of permanence and commitment: most obviously because it was so much in the hand of an earthly master, who did not necessarily much care whether the marriage adhered to or transgressed Christian standards; and also because, given the needs of a genre involving holy or particularly pious persons, every reader would have known that the main subject was due to be freed from his or her master at some point in the narrative, which meant the marriage could only be doomed from the start. The only option for unfree saints, then, was chastity, even if only during the time that they remained unfree: both Balthild and the pious old man, after all, were married without any adverse effects outside their brief spell as unfree persons. Whereas holiness was to some extent compatible with free marriage, unfree marriage was evidently not an option valued to the same extent in saints' lives: it did not make things better, but worse.²⁰

¹⁸ *Vita Balthildis*, c. 3, pp. 484–5.

¹⁹ Argeo of Freising, *Life and Passion of St Emmeram*, cc. 37–42, ed. B. Bischoff, *Leben und Leiden des heiligen Emmeram* (Munich, 1953), pp. 6–83; for a translation: Hammer, 'A slave marriage ceremony from early medieval Germany'; Karras, *Unmarriages*, pp. 43–4.

²⁰ Saints in free marriages might, of course, have their own problems, but not all of them did (Monegund: Gregory of Tours, *Vita Patrum* XIX, and Balthild, *Vita Balthildis*), and even when they

Rather than evidence of a debate on this matter, or for a diversity of opinions pitting ‘progressive’ against ‘conservative’ views, what one finds in each separate treatment of the problem is the same constant sense of unease, albeit filtered and interpreted differently and with different emphases depending upon the issue at hand. On the whole, most rules on the subject end up doing little more than expressing a weak hope that everyone would do the right thing, and leave the outcome down to the individual sense of rectitude of both lord and dependants.

This would continue to hold true throughout this period, and, in fact, applies to most forms of engagement with the question of unfreedom by early medieval religious thinkers. The overwhelming concern of Christian thinkers who expressed a view about unfreedom was to make it compatible with salvation: to help the unfree achieve equal opportunities not in this life, but in the next. The fact that *servi* did not have as much control over their day-to-day existence created clear practical obstacles to this, and made them likely to face greater difficulties in adhering to Christian standards than most free laymen. Churchmen sometimes acknowledged this, above all in penitentials. The *Paenitentiale Vallicellianum I*, for instance, included a recommendation that confessors assign lighter penalties to unfree penitents on the grounds of their diminished responsibility for sin: ‘And know this, brothers, that when *servi* and *ancillae* come to you seeking penance, you should not overburden them nor force them to fast as much as the rich, because *servi* and *ancillae* are not under their own control; therefore impose a half-penance on them.’²¹ Mostly, however, penitentials did not treat slavery as a special case, but rather included legal status among the many variables which confessors ought to take into account when assigning penalties—distinguishing not only between free and unfree, but also between young and old, rich and poor, married and unmarried, lay and clerical.²²

did, their problem was less being married in and of itself so much as their being burdened with an unsupportive spouse, or one who did not understand their vocation (Rade Gund: Fortunatus, *Vita Rade Gundis*; Gangulf: *Vita Gangolfi*). The theme of chastity as the only real option for a holy person in a situation of unfreedom, especially in the case of Saint Emmeram, may well be down to the influence of the *Life of Malchus* by the exceptionally priggish Jerome, which also involves the rejection of a mate: Jerome, *Vita Malchi*; Lenski, ‘Captivity and Romano-barbarian interchange’.

²¹ *Paenitentiale Valicellianum I*, ed. Schmitz, *Bußbücher*, p. 243; on this collection, see Hägele, *Das Paenitentiale Vallicellianum I*. The same text was included in Halitgar’s penitential, probably from the late 820s: Schmitz, *Bußbücher*, p. 473 (from Book VI, the so-called ‘Poenitentiale Romanum’, on which see Kottje, *Bussbücher*, pp. 185–90).

²² An English penitential emanating from Wulfstan of York’s circle similarly insists on the need to make distinctions between different sorts of people: Fowler, ‘A late Old English handbook’, p. 19, lines 91–96; Pelteret, *Slavery in Early Mediaeval England*, p. 105. The connection with Wulfstan has been recently reasserted more strongly by Heyworth, ‘The “Late Old English Handbook For the Use of a Confessor”’. This statement is echoed in a law by Cnut which Wulfstan had had a hand in drafting: II Cnut 68.1b (Robertson, *Laws*); Pelteret, *Slavery in Early Mediaeval England*, p. 90. For other examples from penitentials, including the earlier penitentials of Bede and Egbert: Sheehan, ‘Marriage of the unfree and the poor’, pp. 468–9. Burchard of Worms, *Decretum* XVII, 32 and 34, col. 925B, prescribed a slightly less severe penance for *servi* than for free people in cases of bestiality and sodomy, but Sheehan somewhat overstretchers his point when he argues for a special interest in *servi*’s personal responsibility for sin in either Ivo of Chartres’s *Decretum* or in Gratian’s *Decretum*.

Western writings tended to make unfree people themselves responsible for their own religious observance. This is particularly clear from the treatment of work on Sunday, which, like marriage, was ascribed a very high significance when it came to chances of salvation, but was simpler in its implications, and so led to much more forcefully stated rules and prohibitions. Of course, a *servus* or *ancilla* might have little choice in the matter of whether or not to work on a Sunday. This was occasionally acknowledged in secular laws: in English laws issued by Ine and later by Cnut, for instance, the slave whose master forced him to work on Sunday was manumitted.²³ Church councils and penitentials, by contrast, generally tended to urge flogging regardless.²⁴ This pattern holds more generally. The problem of unfree people's lack of control over their own actions was taken into account in secular laws, which normally stipulated, for instance, that a slave could not be held liable for a crime he had committed on the orders of his master;²⁵ but if anything it generated less interest or discussion in church councils or penitentials, apart from the general urging for the imposition of a lighter penance on those who found it inherently harder to follow their Christian duty. These different approaches towards responsibility were partly an outcome of genre. Secular laws were supposed to help to determine who should be liable for a given wrong. Penitentials, by contrast, were only meant to help confessors deal with whoever happened to have come to them asking for penance, so they quite understandably did not focus on identifying any other possible perpetrators: their aim was not to regulate slavery as institution, but to help people cope with sins for which they had already accepted responsibility and requested penance.

This relative lack of interest in slaves as a special case in penitentials, church councils, or hagiography remains striking—especially in view of these sources' willingness to recognize that different personal circumstances called for different treatment, and also especially in view of the fact that in at least one context church councils plainly acknowledged and insisted on the perils of conflict between duties to earthly masters and duties to God as divine master: that is, in the case of priests. The need to manumit unfree servants before they could enter the priesthood, so

²³ Ine 3 (Attenborough, *Laws*): the slave made to work on Sunday is to be manumitted; 3.1: the slave who works without the knowledge of his master is to receive a beating or pay a fine. II Cnut 45.2: the slave who has worked on Sunday voluntarily is to be beaten or to pay a fine; II Cnut 45.3: the master who forces his slave to work on Sunday loses the slave, who is to be manumitted. Note, however, that other laws stipulate beating generally—perhaps on the assumption that the unfree could organize their own work?: *Lex Baiuvariorum* VII.4 (Hammer, *A Large-Scale Slave Society*, pp. 24–5); *Capitularia* I, no. 7 (*decretio* of Childebert II), c. 14 (to pay 3 *solidi* or to be beaten); thereafter, it is quite rare on the Continent to see any distinction made between free and unfree people in the prohibition of *opera servilia* on Sunday.

²⁴ Early church councils: First Council of Orléans (511), c. 27 on *servi* and *ancillae* having to be let off work on Sunday: *Canons mérovingiens* I, pp. 86–7. The Council of Mâcon (585), c. 1 (*Canons mérovingiens* II, pp. 456–9) already adopted a more punitive angle: *servi* and *rustici* are to be flogged if they work on Sunday. Jurasinski, *The Old English Penitentials*, pp. 100–9 (especially pp. 107–9), makes the point that Anglo-Saxon penitentials and laws make much more of a distinction between free and unfree offenders than their Continental source material.

²⁵ E.g. *Liber iudiciorum* III, 4, 16; III, 4, 17; VI, 4, 2–4; or VII, 3, 5; *Liber Constitutionum* II, 3–4 (both *servus* and *dominus* are to be punished); *Lex Baiuvariorum* XII, 7; *Lex Frisionum* 13–14; *Lex Saxonum* 50–1.

that they might have no master but God, was a standard requirement—though also one that was evidently often ignored.²⁶ The use of the title of *servus Dei*, ‘servant of God’, to refer to churchmen or saints (or, in the case of popes, even *servus servorum Dei*, ‘servant of the servants of God’) took on its full meaning in a context of absolute opposition, not similarity, with human servitude: the two were mutually exclusive. (This is why, incidentally, the use of this phrase cannot be counted in any way as evidence that unfreedom had somehow acquired more positive connotations since late antiquity: its shock value was what made it a powerful metaphor in the first place.) Beyond the requirement of a higher level of autonomy for religious leadership, however, no fundamental debate followed regarding the problem of individual salvation for the unfree. In the constant tension pitting ‘equality’ understood as equal opportunities (in the sense of a recognition of slaves’ diminished responsibility for their own actions) against ‘equality’ in nature (in the sense that everyone was held to be equally responsible before God), it was the latter understanding that largely won the day in the West.

By contrast, assessing how far slaves needed special allowances to be made for them in order to be able to fulfil their duties to God, as well as special protection from other human beings, seems to have been a much more interesting issue to Byzantine authors. The *Lives* of Basil the Younger and Andrew the Fool, already discussed in Chapter 4, give radically different answers to this question, and indeed seem to have been written in dialogue with each other.²⁷ In both instances, the issue hinges on standards of sexual behaviour. In one episode from the *Life of Andrew the Fool*, a handsome young eunuch, who had been brought up with Andrew’s aristocratic friend Epiphanius and had remained a close friend of his, presents Andrew with a gift of dates, ‘having pity on the blessed man as on one of the poor’. Andrew, however, rejects the gift angrily and showers him with abuse, accusing the eunuch of sodomy with his master. Afterwards, Epiphanius asks Andrew why he had been so harsh to his friend:

this young man is a slave, and when he is forced by his master what can he do? ... If a master enjoins his slave to minister to his needs, be they physical, spiritual or sinful, and the slave fails to obey, you surely know, my lord, how much he will suffer, being maltreated, beaten, threatened and receiving all sorts of punishments.

Andrew remains unmoved, maintaining that ‘thanks to the torments you mention [he] will be reckoned with the martyrs.’²⁸ By Andrew’s reckoning, then, certain damnation or holy martyrdom constituted slaves’ only real options when faced with a dilemma of this kind. This uncompromising attitude towards slaves’ sin could not be more at odds with the treatment of the slave woman Theodora’s

²⁶ For a list of examples of unfree priests in ninth- and tenth-century documents: Barrow, *The Clergy in the Medieval World*, p. 337 n. 164; see also the list of clerical *mancipia* in the testament of Alfonso II (Chapter 3, pp. 148–9). On priests’ status, see Van Rhijn, ‘Bottlenecks’, pp. 225–30. On the standard requirement of manumission before joining the priesthood, see e.g. *Capitularia* I, no. 173. Manumissions to enter the priesthood: e.g. *Collectio Sangallensis* 17 (Zeumer, *Formulae*). For eleventh-century examples, see Salmon, *Le Livre des serfs*, nos. 13, 50, 71, 112, 114, and *Appendix* nos. 63–6.

²⁷ Magdalino, ‘The holy man as literary text’, pp. 87–9; see Chapter 4, pp. 137–8.

²⁸ *Life of Andrew the Fool* c. 17, pp. 80–5.

youthful sexual improprieties in the *Life of Basil the Younger*. Theodora, who had appeared to the narrator in a dream in order to console him after her death, gave him a long narrative of her journey to the underworld. She and the angels who accompanied her had just reached the 'tollhouse of adultery' (*moicheia*) when the demons who guarded it claimed that she was theirs to keep. She explained:

...before giving service to the saintly and holy Basil, our father, I had a fellow-slave as my bedfellow at the command of my master. While living with him, I was seduced by some other youths who were in my lord's house, and also had sex with them, because I did not know that such terrifying tollhouses and bitter trials existed. And the attendants of this tollhouse attacked me greatly on this account. But my guides stood against them, saying: 'She was brought into this world a slave-woman, and her marriage was not performed by a priest. She married her bedfellow without being thought worthy of the customary solemn marriage rites. Nor did he, crowned with nuptial wreaths, take her in the church of the Lord in such a way as to give lawful grounds for accusations of adultery (*moicheia*). Rather, these things should be called fornication (*porneia*), as he received her from the hand of her master only by his word.' The others, shrieking loudly, countered: 'Is the lord who bought a slave with silver not as a second God to him? Since she was joined together with the man by the wish of her lord and master, their transgressions should be called the seeds of adultery and not of fornication.' And so after they had debated and inquired in this way for many hours, the young men who guarded me prevailed by the grace of Christ, and we went on our way without paying them anything at all.²⁹

From a Western perspective, this passage seems quite extraordinary, in that it appears to invoke Theodora's lack of access to Christian marriage (in Byzantium expressed in sacramental terms much earlier than in the West) as an excuse for her other sexual encounters; but Theodora was not in fact being let off the hook entirely. The debate between the angels and demons hinged on the fairly technical difference between *moicheia* and *porneia*. Gregory of Nyssa had defined it as the distinction between a sexual sin that caused injury to a (male) third party, such as a husband or father, and one that did not. *Moicheia*, effectively, was illicit sex with a respectable woman, as opposed to illicit sex with an already dishonoured woman.³⁰ The reason why the angels were able to argue, in their lawyerly way, that Theodora could not be guilty of this crime was that she had possessed no sexual honour in the first place.³¹ The demons, defeated by the angels' logic, could still take some comfort in the certainty that Theodora would get her comeuppance as soon as she arrived at the tollhouse of *porneia*. (In the event, she still got away with it, but only because she was carrying with her a little bag of spiritual money with which to pay the relevant fines for her sins, which Basil had provided her with in

²⁹ *Life of Basil the Younger* II, 33, pp. 236–8. For another instance of sexual peril as a result of slavery in a Greek life, see also *Vita di Sant'Elia il Giovane*, cc. 11–14, from Byzantine Italy.

³⁰ Gregory of Nyssa, *Epistola canonica ad Letoium* 3. On *porneia* and *moicheia*, see most recently Harper, 'Porneia: the making of a Christian sexual norm'. Harper notes that *moicheia* is a broader concept than the English 'adultery', meaning something closer to 'violation'; this, on the other hand, makes it very close in meaning to the Latin *adulterium*, which was similarly wide-ranging.

³¹ This is not the only Byzantine depiction of the afterlife imagined as an intensely procedural law court: compare the twelfth-century novel *Timarion*, cc. 32–42.

preparation for her journey.) The moral of this passage, then, was that sin was more or less inevitable for slaves, and that this should go some way (though not quite *all* the way) towards exculpating them—in marked contrast with the perspective espoused in the *Life of Andrew the Fool*.³²

This debate about the extent of slaves' responsibility for their sins finds hardly any parallels in the West. Slavery as a state of being that might in and of itself actively jeopardize salvation did not become a major theme of early medieval Latin literature, though a sense of equality and of a common humanity was certainly stressed there as well. Agobard of Lyon called on this notion in order to ram home the necessity of access to baptism for all, including slaves owned by Jewish masters.³³ Jonas of Orléans argued in much the same terms, though in a less obviously polemical context, for the equality of all men before God, master and slave, rich and poor.³⁴ So did many other texts, especially from the ninth century onwards. At the 813 council of Chalon, the assembled bishops and abbots felt moved to say that although there existed many different human statuses, from nobles to slaves, all were nevertheless united into a single family, insofar as all called out 'Father' to the same God in their prayers.³⁵ The same idea of equality before God during prayer can also be found in English texts from the tenth century onwards, notably in works by Ælfric and Wulfstan of York.³⁶

The argument, in fact, was already a well-worn one by the ninth century, and went back not only to one of Saint Paul's most famous statements ('There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for ye are all one in Christ Jesus', Galatians 3:28), but also to a passage from Gregory the Great's *Moralia in Job* stressing the fundamental equality of all humanity, which Jonas cited and other writers echoed. Gregory, however, had gone on to say that although all were equal in humanity, they were unequal in sin, and that it was this inequality in sin that was reflected in the worldly hierarchy imposed by God (a line of argument which goes back to Augustine).³⁷ This is an inherently much less radical proposition than that occasionally expressed by some Byzantine authors, who noted, like Roman jurists before them, and in a way that does not even suggest

³² On the standard sins of slaves coupled with a sense that they were less responsible for them than free people might be: Salvian, *De gubernatione Dei* IV, 14; IV, 16; IV, 24–6.

³³ Agobard of Lyon, 'Contra praeceptum impium de baptismo iudaicorum mancipiorum', pp. 186–7, and 'De baptismo mancipiorum Iudaeorum', p. 116.

³⁴ Jonas of Orléans, *De institutione laicali*, II, 22.

³⁵ MGH *Concilia* II, 1, no. 37, c. 51, pp. 283–4, discussed in Goetz, 'Serfdom in the Carolingian period', p. 38.

³⁶ Ælfric, 'De dominica oratione', *Catholic Homilies First Series*, p. 326; for Thorpe's older edition and translation: *Sermones Catholici*, I, 19, p. 260. Wulfstan of York: 'The slave may just as confidently call and name as his father his Lord in his *Pater Noster* as the lord may, and the bondwoman just as well as the lady... We are all brothers and also sisters, when we all call to a single Heavenly Father as often as we chant our *Pater Noster*': Jost, 'Einige Wulfstexte und ihre Quellen', p. 272; transl. Pelteret, *Slavery in Early Mediaeval England*, pp. 89–90.

³⁷ Gregory the Great, *Moralia in Job* 21, pp. 1081–3; for an illuminating discussion: Serfass, 'Slavery and Pope Gregory the Great', p. 79.

they felt they were being controversial, that slavery was unjust insofar as it went against the natural equality between human beings.³⁸

By contrast, a sense of injustice did not form part of the treatment of the subject in the West. The passage cited from Gregory the Great probably informed discussions such as Smaragdus of St-Mihiel's on the virtue of making manumissions, in which any possibility of a radical message was once again undercut by a parallel between the manumission of slaves and God's forgiveness for human sin: Smaragdus was clearly no more interested in undermining the power of owners than God's own.³⁹ This is quite a different sort of argument on manumission from the one made in the twelfth-century will of the archbishop Eustathios of Thessalonica, who insisted that the 'evil of slavery, unknown in nature', had been 'invented by human greed' (τὸ τοῦ δουλεύειν... κακόν, φύσει μὲν ἀγνοούμενον, πλεονεξία δὲ ἀνθρωπίνῃ παρευρεθέν).⁴⁰ Nor was Eustathios a lone voice: a similar sentiment attributing the appearance of slavery to human greed is echoed in a notarial formula, a highly conventional genre if ever there was one.⁴¹ The religious rhetoric of manumissions was therefore profoundly different in East and West (though it should be said that neither approach in any case ever led to calls for abolition): although manumitters everywhere hoped that their action would secure divine favour for themselves, in Byzantium, it seems the standard interpretation they placed on their actions was that they were somehow righting a wrong, and that each manumission brought the world a little bit closer to the way God had originally made it. In the West, original sin was seen as weighing more heavily on the unfree than on their masters, so that manumission was framed much more as an act of forgiveness, which masters hoped would be mirrored in their own salvation.

Above all, Western statements about the equality of all Christians had a different point. The claims of equality issued by the bishops at Chalon, by Jonas, by Aelfric, and by Wulfstan were all expressed in connection with pastoral care, in order to help lords and masters to reform themselves; they were certainly not meant as statements that unfree dependants themselves ought to take to heart. As a matter of fact, Gregory the Great's *Pastoral Rule* expressly enjoined that masters and slaves ought to be preached to in radically different ways: whereas masters should be coaxed into mercy and compassion through an insistence on a common humanity with their lowliest dependants, when it came to slaves themselves, Gregory urged preaching not equality, but humility. For him, slavery offered an opportunity for

³⁸ The rhetoric in Byzantine wills is much more about the beauty of freedom and how awful slavery is; see in particular the testament of Eustathios of Thessalonica, below n. 40. The theme is even taken up in legislation, for instance with Alexios Komnenos: see below, n. 49. It is telling that Morris, 'Emancipation in Byzantium', asks not why people made manumissions, but why there were not more manumissions, given the tension between slavery and the Christian message (pp. 140–3); historians of Western Europe tend to ask the opposite question.

³⁹ Smaragdus of St-Mihiel, *Via regia* c. 30, col. 968A-B. The general conservatism of Carolingian clerical authors was already noted by Verlinden, *L'esclavage dans l'Europe médiévale* I, pp. 702–5.

⁴⁰ Eustathios of Thessalonica, *Opuscula*, p. 334; see Kazhdan and Franklin, 'Eustathios of Thessalonica', pp. 164–6; Hadjinicolaou-Marava, *Recherches sur la vie des esclaves*, pp. 53–4.

⁴¹ This formula is translated in Morris, 'Emancipation in Byzantium', p. 133.

both slave and master to achieve salvation, by demonstrating the kind of Christian behaviour most appropriate to their station.⁴²

In the West, if anything, what allowed slaves to become at all ethically and religiously meaningful was precisely the fact that masters could treat them as badly as they wanted: this is what made refraining from it a sign of Christian restraint. The unfree, who stood for the most extreme form of powerlessness, gave the powerful an opportunity to demonstrate their *voluntary* submission to God's will. For the demonstration to be meaningful and symbolically effective in terms of display, lords and masters therefore had to have the opportunity, conversely, of behaving like Rauching. Gregory of Tours's point in describing Rauching's behaviour was to show that he did not know how to behave—not least in that he ignored the intercession of a priest: this, although Rauching was evidently unaware of it, made both the priest and himself look bad, and amounted to a wasted opportunity for the display of legitimate power.

Masters who *did* know how to behave knew when to give up their slaves to priests and saints, as higher authorities. Miracle stories were the ideal vehicle for object lessons on how lords or masters ought to act. Key to the demonstration of good behaviour was their ability to understand their own dependence on God's favour in enjoying their position of power and privilege over others. From Gregory of Tours's *Virtutes Martini* through to the Carolingian period and beyond, books of miracles occasionally showed God bestowing favour on unfree servants or dependants, for instance by effecting miraculous cures. Manumitting the servant afterwards was evidently considered to be the correct and necessary outcome of any cure brought about by a saint.⁴³ Some saints' lives took ungrateful masters to task, and warned that the cure might be annulled if the master failed to manumit the servant: sometimes the affliction came back until the latter was finally freed.⁴⁴ Equally, a saint might also take action on his own behalf when a violent master failed to submit, by loosening a slave's chains or transporting him to a place of safety.⁴⁵

⁴² Gregory the Great, *Regula pastoralis* III, 5; see Serfass, 'Slavery and Pope Gregory the Great', pp. 81–5 (p. 85 for the slave/master relationship as an 'opportunity').

⁴³ Gregory of Tours, *Virtutes Martini* I, 40; II, 4 and 30; IV, 5. Anskar, *Miracula Willehaldi*, c. 29, p. 389: an *ancilla* who had worked on a Sunday in the count's textile workshop is afflicted by loss of speech; the count frees her out of commiseration, and she immediately goes to church, where she is miraculously cured.

⁴⁴ Gregory, *Virtutes Martini* III, 46: a crippled woman is healed; when she is not immediately freed from slavery, she becomes crippled again until she is manumitted. See also Wandalbert of Prüm, *Miracula Sancti Goaris* c. 16, p. 368.

⁴⁵ For saints taking action on behalf of slaves who were about to be punished, see the stories associated with Saint Swithun, Chapter 4, pp. 168–9. Wandalbert of Prüm, *Miracula Sancti Goaris*, cc. 24 and 25 deal with household slaves guilty of displeasing their masters (a merchant and a cleric respectively): a clear contrast is made between the bad master (the merchant) and the master who knows how to draw the correct conclusions (the cleric): the first tried to retrieve his slave, who had fled to a church in fear for his life, dragged him from the altar and killed him at the church doors; he himself died in agony shortly afterwards. The cleric was also about to punish his slave, but the latter had his bonds suddenly loosened after praying and also fled to a church; the cleric knew not to impose punishment after the miracle, and all ends well.

This type of story may partly have functioned as an admonition to bad lords or masters, in order to urge them to change their ways, but interpreting this in terms of a fundamental critique of the power of secular lords would be quite misleading. The existence of 'bad master' tropes did not add up to questioning the rights of masters in general, or seeing unfreedom as hampering salvation in any fundamental way: it simply meant that, as for all relationships of power, the audience needed to be provided with negative examples alongside positive role models. The point of these stories is more likely to have been to bolster the legitimacy of lords, by opening up to them a new repertoire allowing them to demonstrate that they *were* doing the right thing, thus allowing them to use their unfree dependants to enhance their own displays of piety.

Lords are shown taking advantage of these possibilities outside hagiography: one eleventh-century document from St-Peter's in Ghent records a miracle of exactly this kind as the background for the manumission of an *ancilla* named Siborch. She had been doing manual work on the feast day of Saint Amalberga, and got a splinter stuck in her hand. She was immediately taken to St-Peter's, where the relics of the saint were kept:

... as the brothers were chanting litanies for her, and she vowed to the most blessed virgin that she would never again in her life do servile work on her feast day, the wood immediately sprang back far from her hand, and this was seen and heard by people of both sexes, who had gathered for this spectacle. Present among the others at this spectacle was her aforementioned mistress named Rothin, and she gave her to the blessed virgin Amalberga under this agreement, that every year she should pay two *denarii* as a *census*, six for marrying, and twelve after her death.⁴⁶

All parties gained from this display: this kind of elaborate stage-management, far from occasioning conflict, was the fruit of a collaboration between church and owner to aid in the construction of a striking and memorable public ritual moment.

Western statements on the equality of all Christians, then, should not be mistaken for a radical message that would somehow have struck at the very heart of slavery and unfreedom. Slaves in themselves were arguably not as interesting to Western Latin hagiographers as they were to Byzantine ones: Western saints' lives and miracle stories focus much less on the conditions of salvation for slaves, and more on setting standards for the legitimate exercise of power over them by their lords and masters. To some extent, this is also the case in penitentials. The penitentials of Finnian and Cummean, for instance, both ruled that a master who had had sex with his *ancilla* ought to sell her: the point was clearly not the salvation of the slave woman (who would be just as vulnerable to sexual predation at the hands of her new owner) so much as encouraging self-denial in her master.⁴⁷ The attention

⁴⁶ *St Peter's Ghent* no. 154 (1073).

⁴⁷ Penitential of Finnian 39, Penitential of Cummean II, 26; Bieler, *Irish Penitentials*, pp. 88–9 and pp. 116–17. If he had children by her, on the other hand, she was to be set free. This is echoed in II Cnut 54: 'If a married man commits adultery with his own slave, he shall lose her and make amends for himself both to God and to men' (it is not clear how he was to 'lose' her: perhaps this was meant to cover either sale or manumission).

given to masters, and the focus on protecting them against their own abuses of power, partly explains why penitentials give such a grim view of unfreedom, and are generally taken as evidence for the survival of slavery in the ‘ancient’ mould.⁴⁸

Religious thinkers throughout this period were in general quite successful in trying to smooth over and resolve any possible areas of contradiction between Christianity and slavery: rather than in any way undermining unfreedom, or constituting a force for change, they were laying the groundwork and conditions necessary for the construction of a more positive view of it, and of a renewed consensus.

STATE AND STATUS

Theodora’s problem, as identified in the *Life of Basil the Younger*, was eventually resolved in Byzantium at the level of formal rules, when the emperor Alexios I Komnenos, in 1095, issued a law extending full sacramental recognition to slave marriages, on the same basis as baptism or the eucharist.⁴⁹ This sort of intervention explains why the state is generally understood by Byzantinists as acting, in conjunction with the Church, as a force against slavery.⁵⁰ This is a very different interpretation of the role of the state from the one that has been traditional since the 1950s among historians of the Latin West, who tend to see the power of the state as entrenching the ‘ancient’ division between free and unfree.⁵¹ In many ways, however, Alexios I’s legislation, in seeking to enforce limits on masters’ allowable treatment of their slaves, was the more faithful heir to the late Roman legal tradition. The late Roman state and Roman law had been the source of a comparatively high level of regulation, alongside a high level of guarantee of property rights, over slaves and how they might be used: there were laws, for instance, against killing one’s own slaves; others stipulating that a sick slave abandoned by his master was

⁴⁸ Morabito, ‘Signes médiévaux de survie de l’esclavage antique’. The reading of penitentials in English historiography has tended to be milder: Pelteret, *Slavery in Early Mediaeval England*, pp. 101–5. Jurasinski has recently read them in a harsher light, and goes further than most previous historiography in denying any inherent hostility to slavery in the English Church up to and including the eleventh century: Jurasinski, ‘The Old English Penitentials and the law of slavery’; Jurasinski, *The Old English Penitentials*, pp. 86–118. To the extent that penitentials enhanced the value of unfree marriage, he has argued that it was only to place more responsibility on unfree couples, and to include them within the punitive world of the penitentials (‘To secure the unions of slaves was thus not to recognise their humanity, but rather to ensure that the unfree population not see its exclusion from the privileges of the free as a license to engage in unreprieved fornication’, *The Old English Penitentials and the law of slavery*, p. 118).

⁴⁹ Alexios Komnenos’s novel from 1095: Nov. 35, Zepos and Zepos, *Jus Graeco-Romanorum*, vol. I, pp. 341–6. Köpstein, ‘Zur Novelle des Alexios Komnenos zum Sklavenstatus (1095)’; for a real case suggesting resistance to this decree from slave-owners, see Brand, ‘Slave women in the legislation of Alexios I’, p. 21. On the extent of recognition of family rights before this date: Köpstein, ‘Sklaverei in der “Peira”’, pp. 18–20.

⁵⁰ E.g. Hadjinicolaou-Marava, *Recherches sur la vie des esclaves*, p. 106, on the legislation of Alexios Komnenos: ‘[C]’est là une preuve suffisante que l’État s’était déjà déclaré en faveur de la liberté.’ Rotman, *Les esclaves et l’esclavage*, pp. 191–7.

⁵¹ Chiefly associated with Duby, *La société*.

thereby made free; and, by the time of Justinian, even laws preventing masters from forcing their slaves either onto or off the stage as actors.⁵²

Early medieval kings, by contrast, were remarkably non-interventionist in matters involving slaves and unfree people within the household. Although they sometimes tried to limit what owners could do *with* their unfree dependants, insofar as their use might involve impinging on the rights of other free people and/or the moral order, they only very rarely tried to dictate what they could do *to* them.⁵³ For instance, no worry was expressed about a lord killing his own unfree dependant outside church councils, and very rarely at that.⁵⁴ Carolingian capitularies actively insisted that lords had to deal on their own with cases affecting their unfree dependants, and that the latter ought to be kept away from public courts.⁵⁵ That is not to say that kings relinquished all rights to express views on how lords should run their households; rather, that they treated heads of household as proxies much as they did their own officials. Carolingian legislation, in particular, was largely about making 'private' lordly power adhere to the same high standards as 'public' or royal power, in a bid to get *all* powerful people to do the right thing: the blurring of the distinction between public and private was a hope to be fulfilled, not a problem to eliminate.⁵⁶ In that sense there ought to be no real competition or opposition between the power of the head of a *familia* (household) and the power of the king: all formed part of the same world of 'little patriarchs'.⁵⁷

The rights granted to heads of household over their dependants were commensurate with this high level of responsibility. Their authority could be undermined by uncontrolled sexual access to members of the household by outsiders. As a result, practically every law-code devotes some clauses to regulating this access, above all when it came to female dependants. Sex with another person's slave-woman was one of the subjects most frequently treated;⁵⁸ and according to Salic law, an *ancilla* might

⁵² Buckland, *The Roman Law of Slavery*, pp. 36–8. Harper, *Slavery in the Late Roman World*, pp. 232–3, on Constantine's legislation as a step back in regulation. Harper, *Slavery in the Late Roman World*, p. 357: 'In antiquity, the state was an absolute precondition for a slave system of any scale and complexity to emerge and survive.' Earlier, Finley, 'Between slavery and freedom'.

⁵³ E.g. against using unfree dependants to commit crimes: see n. 25 above.

⁵⁴ Limits on punishment were left entirely to canon law collections, mostly citing earlier councils: *Collectio Dacheriana* I, 107 (p. 530), citing a provision from the Council of Epaon (517), c. 34 (*Conciles mérovingiens* I, pp. 118–19) stating masters who killed their slaves without judgement should be excommunicated or do penance for two years; see also *Collectio Dacheriana* I, 103 on a mistress killing her *ancilla*. These are not echoed in contemporary secular legislation, but both clauses were cited in the Council of Mainz (847), MGH *Concilia* III, c. 22, p. 172.

⁵⁵ *Capitularia* I, no. 102, c. 16: 'we order that *servi* should not be sent to judgment on account of any prosecution which we ordered or on account of any other case; but their lords or their [lords'] advocates should punish these *servi*... These lords should punish and interrogate their *servi* as they like.' There is a similarly strong distinction in *Capitularia* I, no. 82 c. 9: if *servi* steal from each other and they belong to a single lordship, their *domini* have the right to render justice to them; but if someone accuses them from outside regarding theft, royal *missi* are to have the right to render justice.

⁵⁶ For instance, the general project of *correctio* was delegated to heads of household: *Capitularia* I, no. 65, c. 5: each was to correct himself and his *familia*.

⁵⁷ I borrow the phrase from Nelson, 'Gender, memory and social power', p. 722.

⁵⁸ *Pactus legis Salicae* 25, 1–2; *Lex Ribuarie* 61, 17; *Liber Constitutionum* XXX, 1; *Liber iudiciorum* III, 4, 15; Rothari 194 (*Leges Langobardorum*); *Lex Baiuvariorum* VIII, 12–13 (the compensation stipulated here was higher if she was married); *Leges Alamannorum* LXXV; *Lex Frisionum* IX, 3–7

be put to death for having sex with a *servus* belonging to a master other than her own.⁵⁹ Marriage between unfree people belonging to different lords is also a frequently recurring topic.⁶⁰ However, because laws are mainly concerned with unfree dependants insofar as they had an impact on free people other than their master, they usually do not deal at all with the topics of either sex or marriage between two dependants belonging to the same lord, which one would expect to have been the most common case scenario. By the same logic, law-codes devote much space to outlining the punishments reserved for slaves when they had transgressed against someone outside their own *familia*; what happened within it was clearly left up to their owner. Secular laws regulated the space in-between, not within, households: they dealt with the points of interface where friction was likely.

Very occasionally, however, kings did step into the internal running of the household. Two laws, very unusually, even attempted to interfere with a lord's right to sexual access to his own *ancillae*. One is in a Lombard law from the reign of Liutprand, which ruled that:

if a free man has a *servus* and an *ancilla*, or an *aldius* and an *aldia*, who are married, and at the instigation of the enemy of the human race [i.e., the devil] he commits adultery with this *ancilla* or *aldia*, we order that he should lose the *servus* or *aldius* and his wife, and both should be fully free.⁶¹

This is a very surprising decision, and it clearly corresponded to a recent change of tack, since only a few years earlier Liutprand himself had ruled that the children of a lord who had taken the wife of his *servus* or *aldius* while her husband was still alive would be free, but could not become his legitimate heirs, 'since while both *servus* and *dominus* are living, it cannot be certain whose child they are'.⁶²

The other instance is a law of Cnut, which rules that a married master who had sex with his *ancilla* should lose her: this focuses on the marital status of the master rather than the *ancilla*, and so has nothing to do with unfree marriage.⁶³ Both Liutprand and Cnut were intensely preoccupied with adultery as a 'public' wrong impinging on the general moral order. They were not the only ones to think of it in this way, but these two laws remain absolutely exceptional: even Carolingian capitularies, which generally took marriage and adultery extremely seriously, do not contain any provision of this kind applying to unfree people. Even in Liutprand's case, the concern was evidently with adultery rather than with the stability of unfree marriage per se: he took no steps, for instance, to prevent one

(here the compensation varied depending on how many men the *ancilla* had slept with before) and XIII, 1; Aethelbert 10–11, 14, and 16 (Attenborough, *Laws*).

⁵⁹ *Pactus legis Salicae* 25, 5.

⁶⁰ Mostly laws stipulated that both masters needed to consent to the marriage, and then also how the property and children might be divided. *Liber iudiciorum* III, 2, 5; X, 1, 17. *Leges Langobardorum*: Rothari 220; Liutprand 126. *Pactus legis Salicae* 25, 7; *Capitularia* I, no. 177, c. 21.

⁶¹ Liutprand 140 (*Leges Langobardorum*).

⁶² Liutprand 66 (*Leges Langobardorum*).

⁶³ II Cnut 54 (Robertson, *Laws*). See above, n. 47.

spouse being sold while another was not.⁶⁴ In general, therefore, it remains the case that secular law-makers, like churchmen, issued far fewer marriage regulations for unfree people than they did for the free.

The one exception to this was marriage across status boundaries, which looks like the object of much greater interventionism. It is the problem with unfree marriage treated with the greatest consistency across all the different early medieval law-codes. Most include provisions prohibiting marriage to anybody of a different legal status, and strictly mandating marrying only other unfree or free persons (or *lidi*, *aldii*, or *tabularii*, as the case might be). The solutions stipulated in cases of mixed unions could involve severe punishment and separation (usually in those law-codes that were more 'Roman' in character, like Burgundian or Visigothic laws), but most codes opted simply to remove the mismatch by reducing the higher-status spouse to the legal condition of the lower-status one, along with any children the couple might have in the future.⁶⁵ This applied when a freedman or freedwoman married an unfree spouse, in which case they lost their newly acquired freedom; this even went to the point, in Lombard law, of including those who simply remained married to the same unfree spouse following their manumission.⁶⁶ (However seriously Lombard law took unfree marriage compared to other law-codes, this was evidently cancelled out by its complete prohibition of mixed-status marriage.)

Especially in view of law-makers' general reluctance to regulate unfree marriage in other respects, these rules look extraordinarily binding and inflexible, and strict endogamy within each legal status category comes close to looking like an actual state agenda. Rules issued by church synods included nothing like this level of prohibition: for instance, the Verberie synod, far from trying to undermine the validity of mixed-status marriages, was only concerned with ensuring their permanence, stipulating that the free spouse could not then go and marry someone else afterwards.⁶⁷

This high level of attention to the consistent reproduction of status categories in early medieval laws has been interpreted in different ways in French and German

⁶⁴ Lombard laws took an exceptionally harsh view of adultery: e.g. Rothari 213; Liutprand 121 and 130 (*Leges Langobardorum*). Liutprand in particular seems to have been extremely unusual in extending this high level of concern to unfree spouses as well, forbidding unfree bigamy absolutely (Liutprand 104), and even going to the point, in a move wholly without parallel elsewhere, of subjecting any outsider, free or unfree, who committed adultery with a married *ancilla* to her unfree husband (Liutprand 139). On selling or manumitting one spouse while the other remained with their *dominus*: Liutprand 98.

⁶⁵ Burgundian law: *Liber Constitutionum* XXXV, 2–3. Visigothic law: *Liber iudiciorum*: III, 2, 3–4; III, 3, 9; IV, 5, 7. *Pactus Legis Salicae* 13, 8–10; 25, 3–4. *Lex Ribuaria* 61.9–11; 61.14–16 and 61.18. *Leges Langobardorum*: Rothari 193, 217–19, 221, Liutprand 24, 28, 98. *Leges Alamannorum* XVII, 1–2. *Capitularia* I, no. 140, add. in Paris BnF lat. 4995; no. 142 (819), c. 3, developing the original provision from Salic Law; no. 157, c. 4; no. 159 (823?, Italy), c. 1; no. 201 (832, Italy): add. in Paris BnF lat. 4613: cc. 13–14. Capitularies may give the impression of not insisting on this issue as much (Joye, 'Fabrique d'une loi, fabrique d'un peuple, fabrique des mœurs', p. 104), but they often cite exceptions, suggesting they still considered the rule to be valid: e.g. *Capitularia* I, no. 39, c. 5; no. 44, c. 22; no. 158, c. 1; II, no. 252, *canones extravagantes* 2.

⁶⁶ E.g. Liutprand 98 (*Leges Langobardorum*).

⁶⁷ *Capitularia* I, no. 16, c. 13 (similarly no. 15, c. 8, also from a synod).

historiographies. French historians, as we have seen, tend to see serfdom as born out of a loss of differentiation in peasant status—whether in the eleventh century under the common yoke of the *seigneurie banale*, as in the feudal mutationist model, or, according to Bloch, Barthélemy, and others, very much earlier: the difference here is essentially one of chronology rather than definition.⁶⁸ For French historians, rules against mixed-status marriages represent the state's attempt to counteract slippage and confusion in status, and to protect the dividing line between free and unfree (taken as equivalent to that between public and private). German historians, on the other hand, do not see the enduring importance of legal categories as necessarily incompatible with serfdom, and in fact see them as instrumental in its development—for instance focusing on the replacement of *servi* by other categories, and above all those statuses which German historians designate as 'half-free' or 'less-free', like *tabularii* or *censuales*.⁶⁹ In other words, for German historians, laws about the endogamous reproduction of categories had the potential to lead to serfdom, whereas for French historians they were either irrelevant to it or delayed its advent by attempting to prolong a sense of difference in status. In any case, both perspectives see the control of marriage as the key way in which kings attempted to engage with and control status, and to ensure the hereditary reproduction of categories, with the aim of ensuring clarity.

What both of these approaches fail to take into account, however, is that, whatever else it may have been that these laws achieved, it certainly did not involve clarity. Judging from formularies, polyptychs, and even some letters, marriages across status boundaries were actually rather common, and they did not necessarily lead to depression in status for the free spouse.⁷⁰ Even laws themselves record traces of such divergent practices. For instance, Alemannian laws were comparatively lenient in giving a free woman who had married a *servus* three years within which to leave him and recover her free status, but beyond this she was to remain an *ancilla* herself in perpetuity. A further law from the same code, however, discusses whether a free woman who had married a *servus*, and who had evidently remained free, might inherit from her father on an equal basis with her sister

⁶⁸ See Introduction, pp. 6–7. Bonnassie, 'Survie et extinction', pp. 319–20 on mixed marriages; Bloch, 'Comment et pourquoi'; Barthélemy, *The Serf, the Knight and the Historian*.

⁶⁹ On these, see Chapter 3, pp. 101 and n. 86. Esders, *Die Formierung der Zensualität*, pp. 25–6 on endogamous marriage rules helping to create a new status category. Contrast Barthélemy, who denies the existence of any 'half-free' category and reads them as simply synonyms of 'unfree': *The Serf, the Knight and the Historian*, pp. 94–5.

⁷⁰ Formularies: *Formulae Marculfi* II, 29; *Formulae Andecavenses* 59; *Cartae Senonicae* 6; *Collectio Flaviniacensis* 102 (= *Formulae Marculfi* II, 29); *Formulae Salicae Merkelianae* 31; *Formulae Salicae Bignonianae* 11; *Formulae Salicae Lindenbrogianae* 20 (in this, the unfree husband is freed too—perhaps because the master wanted to avoid his *servus* being put to death, and had to placate the woman's family, though under what terms we will never know); *Formulae Morbacenses* 18 and 19; *Formulae Augienses Coll. B* 41. Letter from Einhard's wife Emma to Blidthrut: *Einhardi Epistolae* no. 37, p. 128 (translated in Dutton, *Charlemagne's Courtier* no. 15, p. 137). On mixed marriages in the *Polyptych of St-Germain*: Coleman, 'Medieval marriage characteristics'. On free–unfree marriages in Frankish sources, see Goetz, *Frauen im frühen Mittelalter*, pp. 263–7; Rio, *Legal Practice and the Written Word*, pp. 216–23. In Italy: Rainis, 'Storia della schiavitù femminile', especially pp. 730–6 on the case of Anstruda, a free woman who married a *servus* belonging to Toto of Campione (Gasparri and La Rocca, *Carte di famiglia* no. 1).

(it turned out she could, though the sister who had not married a *servus* got to keep the land).⁷¹ Similarly, Frankish capitularies regularly reiterate rules whereby free persons who married an unfree spouse were to become unfree themselves, but one capitulary from the reign of Charlemagne ruled in the case of ‘*servi* who marry free women (*feminae Francae*) and whose lords then give them charters saying the children are to be free’, recognizing the validity of such charters, though noting that they did not apply to offspring born after the death of the issuer (since after this point the matter should be decided by his heir instead).⁷²

This fairly relaxed attitude may seem puzzling in view of the harshness of the original prescriptions. Of course, this could be just a function of the fact that *any* rule was always hard to enforce during this period. But it may well be that enforcement, in the sense of ensuring that mixed-status marriages never happened, was not the point of these laws in the first place. All this draconian legislation evidently did not succeed in deterring mixed-status marriages, but it did make it easier for lords to pursue their own arrangements from a position of strength. Clearly they took advantage of this, since the outcomes of mixed-status marriages seem to have been rather diverse. Such clauses would only have been relevant in cases of dispute. If lords did not want to pursue their rights to the full, or were unable to, all they had to do was not enforce their claim, or use it to get something else instead: for instance a counter-gift, which we can assume would normally have been made in return for issuing a document promising not to claim a spouse as unfree. The fact that such marriages were defined as a wrong punishable by enslavement made it easier for lords to leave their options open, make further deals, or re-categorize children downwards later on, according to what suited them at the time—and, as we saw in Chapter 5, according to what the local community could agree to remember about it if and when a dispute came about.⁷³

All this promoted, rather than eliminated, confusion in status: if anything, it helped lords to muddy the waters by adding further negotiating tools to their panoply. In that sense, it may well be that these laws, rather than failing to have any impact in practice, mostly came into their own in allowing lords to capitalize on their breach. The legal framework for the attribution of legal status in cases of mixed unions ensured that lords as well as the families of free spouses had a wide scope for manoeuvre, negotiation, and trade-offs—whether pre-emptively or as part of a dispute process.

Although, then, Carolingian kings arrogated themselves the exclusive right to regulate and control the membership of legal categories, as had the late Roman state, the two approaches did not quite amount to the same thing. Carolingian capitularies may have insisted that disputes over status should be settled before a court presided over by a count,⁷⁴ but this does not imply that their intention was necessarily to

⁷¹ *Leges Alamannorum* XVII, 2 and LV.

⁷² See above, n. 65; *Capitularia* I, no. 58, c. 8.

⁷³ See Chapter 5, n. 65 on St-Gall and Freising disputes about the status of spouses.

⁷⁴ *Capitularia* I, no. 64, c. 3; no. 65, c. 15; no. 80, c. 4; no. 134, c. 4; no. 135, c. 3; no. 139, cc. 12 and 14. If anything, the arsenal of ‘public’ justice could play an important role in furthering the strategies of local lords: Albertoni, ‘Law and the peasant’, p. 445. For disputes over status in the late Roman era: Evans-Grubbs, ‘Between slavery and freedom’.

protect free status: rather, it was a way of ensuring that the settlement would be backed by the highest available level of authority, and thus be definitive, rather than necessarily in order to counterbalance local special interests or the claims of lords. If anything, it looks as if kings' main concern in legislating about unfreedom was not to control the criteria for membership, nor to define and protect a citizen-like body of 'the people of the Franks', as Duby put it, but instead to offer a maximal possible reading of property rights for the benefit of their kingdom's elite.⁷⁵ This may explain the extraordinarily conservative outlook on unfree status expressed in laws: these did not have to be realistic in order to fulfil their purpose. In most cases, what was being offered was a hard-line starting point, which could evidently be negotiated according to the relative bargaining positions of both lord and dependant.

The state, in other words, was not holding on to the distinction between free and unfree because it had an agenda different from lords': instead, it was giving them a head start in the course of conducting the kind of bargaining we saw in Chapter 5. The more law there was for lords to impose or ignore, the more room for manoeuvre this gave them. Even when they were not actually interested in denying as many rights to their unfree dependants as laws would in principle have allowed them to, they could still charge for access to them, or use this as an opportunity to get other things, such as land or other forms of compensation.

The state may well have had its own reasons to try to enforce clarity in the inheritance of status, and to issue rules preventing mixed unions in order to define more clearly the membership of the political community it ruled over. Lords, however, had plenty of reasons to welcome such rules as well, since they offered so much scope to make pre-emptive or retrospective deals regarding any unions that did not conform to them. The degree of enforcement of such rules was not particularly intimately connected with the extent of the state's independent reach. Strong royal power was not required in order to make any of these rules work: this much should be clear from the fact that, if anything, one finds more evidence in the surviving documentation for free persons taking on their spouse's unfree status during the eleventh century—supposedly the century when state power had reached its nadir—than during the ninth.⁷⁶

LORDS AND THE DENYING AND GRANTING OF RIGHTS

Neither Church nor state, then, end up looking as if they had much of a distinctive agenda in dealing with unfree status, and this makes it hard to see them as drivers of change, or conservatism, during the early middle ages. The example of unfree marriage shows how difficult it can be to tell apart their priorities from those of

⁷⁵ Duby, *La société*, p. 110.

⁷⁶ For instance: free spouses claimed as unfree in Marmoutier: Salmon, *Le Livre des serfs* nos. 76 and 127 (Fouracre, 'Marmoutier: *familia* versus family', pp. 264–5); in Southern Italy: *Codex Diplomaticus Cavensis* IV, no. 568 (1004); no. 628 (1010).

private lords: even rules that could initially look as if they were meant to fulfil an agenda independent of the interests of lords can in fact be read equally well as enhancing their power and taking it in new directions. Christian rules of behaviour towards unfree dependants gave lords additional opportunities to showcase their legitimate exercise of power; rules against mixed marriage allowed them to put pressure on couples and their descendants later down the line. Favouring marriage and lending permanence to unfree couples might look like a religious concern, but it also functioned as a strategy of domination, as claims of inheritance everywhere became increasingly key to lords' techniques of control over their unfree dependants—implying the need for the recognition of kin relationships. If anything, access to marriage seems to have been granted much earlier and more routinely on lords' estates than in the rulings of church councils. The *Life of Saint Emmeram*, discussed earlier, even shows a degree of worry on the part of religious professionals over lords deploying the rituals of marriage for their own purposes in ways that did not always conform to Christian morality (for instance, in the case of that story, by overlooking bigamy).⁷⁷

Some historians regard the emergent nuclear family type, relatively frequent in polyptychs at the unfree tenant level, as largely engineered and designed by lords. The case has been made for ninth-century Bavaria and Italy, where unfree households appear to follow a simpler configuration than free ones, notably in avoiding the sharing of household resources between multiple married couples. Laurent Feller (for Italy) and Carl Hammer (for Bavaria) both explain this as the result of a very high level of interventionism on the part of lords, keen to ensure a stable land/labour ratio by denying marriage to all but one son. This allowed them to ensure the indivisibility of the tenure, and simultaneously gave them scope to redeploy any excess unmarried descendants either to colonize further land or to supply labour on farms held by childless couples.⁷⁸ Here too, however, it can be difficult to distinguish between different types of agency, because very similar outcomes could be taken as a sign of either lordly imposition or peasants' own family strategies: the desire to maintain an undivided inheritance could be a priority of either, and both were eminently capable of taking a highly interventionist approach

⁷⁷ See above, p. 221.

⁷⁸ Bavaria: Hammer, 'Family and *familia*', especially pp. 245–6, has made the case for an extreme level of manipulation of peasant families by lords: 'Thus, the western family may be a function of another aspect of our western heritage: slavery. The social arrangements and cultural patterns imposed by the aristocracy (including the church) on its plantation slaves for administrative efficiency may have been so deeply implanted and pervasive that they survived the decline after the eleventh century of the institutional environment which had nurtured them. The lords planned and tended, but it was amongst the enslaved masses of early-medieval Europe that the modern family emerged' (quote at p. 248; note the phrase 'plantation slaves' is here being used rather idiosyncratically). Italy: Feller, 'Liberté et servitude', pp. 516–18; also Feller, *Les Abruzzes*, pp. 526–33 (*contra* Ring, 'Early medieval peasant households in central Italy'), presents adoption in the absence of children as another strategy employed by lords (similar to Hammer's notion of orphans deployed on the farms of childless couples: 'Family and *familia*', p. 237); when there was more than one son, he observes the denial of marriage to all but one, which he reads as a way of allowing both the preservation of the tenure as an unsplit whole and the migration of supernumerary children to go and colonize outlying farms. On the nuclear family in the Carolingian era in particular, see Toubert, 'Le moment carolingien'; Herlihy, 'The making of the medieval family', pp. 120–1.

to marriage. For instance, we also find the ‘one married son only’ pattern in Provence, in the polyptych of Wadaldus, despite what seems to be, relatively speaking, quite a low level of lordly control: in this case it is more likely that an unmarried state had been imposed on the other sons through the exercise of internal discipline exerted by the head of household himself.⁷⁹

It can therefore be hard to tell whether the right to marriage should be seen as a victory for the unfree, or a different kind of imposition. Doubtless it could be either, or both (and of course extremely few people during this period got to choose who they married anyway, whether free or unfree). Ambiguities over what type of agency would have encouraged what type of behaviour are a direct outcome of the fact that marriage affected so many different aspects of life (family, tenure, workforce) and could therefore participate in many different, if often converging, strategies. Either way, it seems clear that the priorities of the lord, and perhaps those of peasant families, would have amply superseded any set by either Church or state. Neither of these latter two produced much regulation regarding the rights that might or might not have been attached with the recognition of marriage or family life—for instance in terms of continuity of tenure, access to property, or control over children: this was all essentially worked out by lords. State and Church ruled about these things only insofar as they were landlords too (that is, in relation to fiscal or ecclesiastical unfree dependants, *servi fiscali* or *ecclesiastici*), rather than in their capacity as overarching authorities.

It is often assumed that the ultimate goal of private lords, in contrast to the Carolingian state, would have been to play down distinctions of status, in order to oppress all peasants equally. However, as we saw in Chapter 5, internal differentiation within peasant communities could actually serve lords quite well, and help them to obtain more in net terms by playing on a sense of hierarchy, and getting the better off within the peasant community to collaborate with them. They may also, as in the case of marriage strategies and the streamlining of inheritance of tenure, have found some interests in common with unfree heads of households, in tension with their more junior members.

Lords only *look* as if they did not care as much about unfree status because (unlike, for instance, the state with its rules on mixed marriages) their priority was not to deny their unfree dependants access to any particular right systematically, at least in a rural tenancy context; instead, their priority was to ensure the recognition of subordination. Lords in fact seem to have more often managed to fulfil this requirement by making the most out of *not* denying rights, and making their forbearance conditional on a full admission and reassertion of unfree status on the part of the dependant. Deciding not to enforce all of their prerogatives could offer lords an opportunity to reassert their authority over their dependants just as much as enforcing all of them to the letter. For instance, granting the principle of inheritance of tenure, a right which was never formally granted in any secular or church

⁷⁹ Faith, ‘Farms and families’, pp. 196–9. Bourdieu described similar strategies, designed to find a way around the division of inheritance, in the Béarn for a much more recent period: Bourdieu, ‘Les stratégies matrimoniales’.

legislation, could be very helpful to lords in staking claims to land. In one dispute from 851, Bernard, Count of Auvergne, ruled that tenure of a farm should be given back to a *servus* of the fisc named Quadalencus, who was claiming he had inherited it from his mother and grandmother. This was done at the request of a certain Golfaldus, who was presumably in charge of the estate of the fisc to which Quadalencus belonged; his interest in the case must have been to recover the holding as belonging to the fisc as well.⁸⁰ Both relied on establishing Quadalencus's unfree genealogy to secure an advantage: Golfaldus because proving that land had been held by unfree dependants of the fisc was equivalent to proving that it too was fiscal property; Quadalencus because he got to inherit the tenure and exploit it. This type of collaboration in the social reproduction of unfreedom was more likely to come about through the selective granting of access to rights than through denying them. None of this implies that unfreedom was becoming any less relevant to lords: the relatively few rights that they actually ended up bothering to deny their unfree tenants in practice (in contrast with the multitude of rights which laws would have allowed them to deny in principle) may make it seem as if the distinction with free tenants was simply evaporating, but it may, on the contrary, represent deliberate tactics intended to reinforce unfree dependence, as opposed to undermining it through a laissez-faire attitude.

This is worth bearing in mind in connection with the supposed sea-change of the eleventh century—the century when, in the wake of the demise of the state, private lords are meant to have got their wish as equal-opportunities oppressors, and finally found themselves able to exercise control over a much wider range of the peasant population and subject them to a range of burdens regardless of status. New terms, no longer rooted in the Roman tradition, such as *homo proprius* (a lord's 'own man'), *homo de corpore* (loosely translatable as 'dependant in body'), or *homo de capite proprio* ('dependant by his own head'), start to appear in documents from this point.⁸¹ These seem to have referred to people who, in addition to living in the territory over which a lord held political authority and judicial rights, were also in a state of personal dependence to him. Georges Duby thought of these as a fundamentally different type of dependant from earlier (and a few remaining contemporary) *servi*, and argued they were not subject to the same disabilities and absence of rights.⁸² For Duby, the move from *servi* to *homines proprii* represents a move from signifying a type of status to signifying a type of relationship to a lord. The eleventh and twelfth centuries, by this reading, amount to a parenthesis in which legal status did not really exist in the proper sense of the term; it would not return on the scene until the work of the jurists of the thirteenth century reasserted the distinction once more, albeit on a different basis.⁸³

⁸⁰ Quadalencus was claiming the land 'in benefice', and also, for good measure, as his 'legitimate allod' as well: *Grand cartulaire du chapitre Saint-Julien de Brioude* no. CXIV (851), pp. 30–1.

⁸¹ Duby, *La société*, p. 204; Bonnassie, 'Survie et extinction', pp. 338–41.

⁸² Duby, *La société*, pp. 209–12 (p. 210: 'Le groupe des hommes propres ne prolonge donc pas celui des *servi*').

⁸³ Duby, *La société*, p. 212 for the contrast with thirteenth-century serfdom.

As many historians have pointed out since, however, this conceptual move is very hard to document empirically on the basis of surviving source material. Just as the use of old words is no sure sign of continuity, new words also do not automatically mean new things, and *homo proprius* has since been shown to appear in eleventh-century documents more often than not as a straightforward synonym of *servus*, rather than as a new category.⁸⁴ It is also not clear that this category was necessarily much more expansive than that of *servi*: already for centuries, there had been ways of talking about all more or less subjected dependants, free or unfree, as if they were the same, especially in charters of donation (the words *mancipia* in Francia and *manentes* in Italy had long been used for that purpose).⁸⁵ And if charges and duties seem hard to connect to any particular status, this too had been true of the Carolingian period as well.⁸⁶ It is certainly true that eleventh-century lords seem to have placed many new burdens and restrictions on the free peasants living on their territory, some of which (such as lack of access to public courts) used to be markers of unfreedom. It does not follow, however, that this would have made issues of status automatically less relevant to any of the various parties involved: in fact, as we saw in Chapter 5, legal status could be all the more worth stressing in its own right when the differences between tenants in socio-economic terms were becoming less obvious, when it could become a medium through which to debate over seemingly minute (to us, but not to them) differences in the allocation of duties and place in the estate hierarchy.

Nor, indeed, does the surviving evidence point towards a loss of importance of the distinction between free and unfree to contemporaries, nor of a diminished interest in unfree status as a tool of economic exploitation.⁸⁷ If anything, one finds a flowering of new sources dedicated to establishing status: unfree genealogies, for instance, show how helpful marriage and the demonstration of family relationships continued to be to lords in asserting their claims over their dependants. Examples of the genre survive from eleventh- and twelfth-century Spain, Italy, France, and England, and offer much more careful and thorough documentation for the inheritance of status (however creative it may have been in practice) than anything produced during the Carolingian period.⁸⁸ The *Book of Serfs* of Marmoutier also shows how much effort was still worth putting into identifying and obtaining recognition of their status from unfree dependants. It would be

⁸⁴ Barthélemy, *The Serf, the Knight and the Historian*, pp. 90–4, and Carrier, *Les usages de la servitude*, pp. 181–2, *contra* Duby, reading *homo* as a synonym of *servus* and *mancipium*.

⁸⁵ On *manentes*, Pasquali, 'La corvée nei politici italiani dell'alto medioevo', pp. 110–13; Panero, *Schiavi, servi e villani*, p. 234; on *manentes* in the twelfth century, Wickham, 'Manentes'. On *mancipia*, Renard, 'Les *mancipia* carolingiens étaient-ils des esclaves?', pp. 192–4.

⁸⁶ See Chapter 5.

⁸⁷ Panero, *Schiavi, servi e villani*, pp. 170–1 on the continuing distinction between free and unfree in Italy, even in context of banal lordship; Carrier, *Les usages de la servitude*, pp. 98–105 on Burgundy.

⁸⁸ Spain: see Chapter 4, nn. 61, 62, 67, 68, 69. For two servile genealogies from Santa Fiore in Arezzo, see Chapter 5, n. 108. France: examples are discussed in Berkhofer, 'Marriage, lordship and the "greater unfree"', pp. 10–11; Taylor, 'Monasteries and servile genealogies', has further examples listed at n. 3. See also *St Peter's Ghent* no. 319. For English genealogies: Hyams, 'Proof of villain status', p. 723, n. 8 (and p. 749, n. 3 for thirteenth-century examples; for this later period, see also H. Cam, 'Pedigrees of villeins and freemen in the thirteenth century').

possible to argue, of course, that all these texts had to do not with establishing hereditary status in an absolute political or legal sense, but instead hereditary socio-economic dependence to a lord. The two, however, are not mutually exclusive, and indeed can be hard to separate at any but the most abstract level: as we have seen, there was a constant back-and-forth process of translation between legal status and socio-economic relationship, and negotiation between lords and dependants largely depended on making trade-offs between the two. Each was capable of supplying nuance, additional shades of meaning, and sometimes tendentious interpretations for the other.⁸⁹

To the extent that Carolingian kings had continued reiterating impeccably classical Roman law principles, as with Charlemagne's famous statement that 'there are free men and slaves, and nothing else', it was largely done in order to aid in such bargaining, rather than to formulate an abstract political principle. One only has to compare the contexts in which this apparently basic statement was made to note the difference: whereas Gaius in the second century (and 'Bracton' in the thirteenth), as we have seen, had included the very same words as a bland and abstract introduction to a textbook treatment of the subject, Charlemagne said them in real-life problem-solving mode, in order to determine what should happen to the children in the case of dependants from different lordships who had got married. The problem also happened to be solved precisely through a trade-off between status and relationship: although the couple were not *servi*, but *coloni*, Charlemagne decided that their situation of dependence made the two conditions close enough to warrant their inclusion under the same label.⁹⁰

Above all, unfreedom had not been used as a way of dividing society in absolute terms for a long time: for lords and tenants of great estates, it had developed mostly into a bargaining tool, deployed strategically as a means of obtaining something else. For many unfree people (one would be inclined to guess for the vast majority of them) as early as the Carolingian period, the notion of legal disability was already being used not so much to deny rights as to obtain other things in return for access to them, from an explicit recognition of unfree status by the dependant to a counter-gift. All of these tactics are particularly clearly detectable in relation to unfree marriage (and indeed, as I have argued, the production of laws restricting marriage had long been dominated by a concern to serve just this kind of negotiation).

The usual practice of eleventh- and twelfth-century lords of claiming direct oversight over the marriages of their unfree dependants mostly as an opportunity to reassert their other rights over them, then, finds strong precedents in the early middle ages. The panoply of possible approaches by which lords could deny rights, facilitate them, graciously accede to them, or grant them in exchange for payment or an appropriate counter-gift were already familiar in the early middle ages. Marriage was one of several types of occasion in which lords could take the opportunity to extract firmer commitments from their dependants.⁹¹ Marriage to a spouse from a different lordship, for instance, could occasion formal exchanges of

⁸⁹ See especially Chapters 2 and 5.

⁹⁰ See above, n. 1.

⁹¹ Berkhofer, 'Marriage, lordship and the "greater unfree"'.

unfree dependants:⁹² this was not simply a precaution to exclude the potential claims from the other lord over descendants and land, but also an opportunity to insist on the fundamental need for permission and intercession. Equally, unfree status could also be deployed to punish or deter refusals to acknowledge lordship or labour obligations.⁹³

On a practical level, then, eleventh-century serfdom does not end up looking like it obeyed such fundamentally different rules compared to earlier centuries after all. If there was a key difference, it was that, as we saw in Chapter 4, there had also always been throughout the earlier middle ages a minority of unfree people (how significant we will never know) who, whether on account of the terms by which they had been secured, their stage in the life-cycle, or their function within the lord's household or the estate, *were* being fairly systematically denied in practice such rights as access to marriage or inheritance by virtue of their status, even if only on a temporary basis. By the twelfth century, however, it seems that this much higher degree of constraint had either become focused on particular groups made permanently liable to it (such as 'cultural-outsider' slaves in Southern Europe), or (in Northern Europe) had become an option less and less commonly chosen by lords, who used unfree status in an increasingly specialized way, ever more narrowly focused on extracting dues in cash or kind from unfree tenants, and so removing most of the few remaining practical motives for interference with rights to either family or inheritance.

THE TWELFTH CENTURY AND BEYOND

This approach to unfree tenants' rights, grounded less in denial than in conditional access, was eventually formalized in the late twelfth and thirteenth century, though this formalization also lent it a fundamentally different quality. On the one hand, the requirement for explicit recognition of the lord's authority, as well as the need for a counter-gift, became a more and more common expectation, notably with the charging of specialized fees. Evidence for these for marriage begins to accrue from the beginning of the thirteenth century: in France *formariage* (a fee charged for 'out-marriage', marriage to a free spouse or a spouse from outside the estate), in England 'merchet' (a fee chargeable on the marriage of any unfree female tenant). As the same time, less emphasis was placed on the need to ask for the lord's permission. Robert Berkhofer has linked the diminishing emphasis on permission from the lord to developments in the canon law on marriage, a by-product of which was to remove lords' ability to deny the validity of the marriages of their unfree dependants, including those entered into without consulting them. This rule was established with Hadrian IV's 1155 decretal *Dignum*

⁹² For twelfth century exchanges of *servi* for marriage purposes: Berkhofer, 'Marriage, lordship and the "greater unfree"', pp. 5–7.

⁹³ See Chapter 5.

est, and further developed under the pontificate of Alexander III.⁹⁴ Such rulings were explicitly not intended to challenge lords' other rights over their unfree dependants, but they did close off some possible avenues for action. The fact that marriage had implications in many contexts that fell outside the scope of canon law also led to some uncomfortable compromises between Roman and canon law on the subject, generally upholding the permanence of unfree marriage, but in the end never quite resolving the issue of how far any party could legitimately take matters in cases of conflict.⁹⁵

This did not necessarily add up to a fundamental game-changer in practice. Even if lords could not technically prohibit marriages, they could at least control their property implications, or use fees as dissuasion, or weigh in on both family and community. It has been much debated whether *merchet* in England was used by lords primarily to control marriage, to tax it, or to control who might obtain access to tenure—in other words, whether it was used more to control people or property.⁹⁶ There does not have to be a single answer to this: like unfree status itself, it was merely an instrument, there to be used or not, to deny or to charge for different things based on need, support within the community, and how bullish the lord was feeling at any given time. Sometimes people would have been the more crucial object of control, sometimes property: one can easily imagine lords as interested sometimes in asserting rights over wealthier, uppity unfree tenants, sometimes in removing really unsuitable husbands as prospective tenants. Lords, either way, would still have been left with quite flexible tools in hand, and clearly found a way of using fees and recognition of status in order to fulfil their needs to their satisfaction.

Nonetheless, this was a different world from that of the early middle ages. The production of rules, about unfreedom and about many other things, had come to be dominated by more mutually distinct forms of authority, less inherently predisposed towards cooperation. Overall, the work of professional Roman and canon lawyers, along with experts in common law (in England) and in customary law (in France), resulted in a substantial reorientation of unfree status.⁹⁷ All this made the late twelfth and thirteenth centuries a deeply inventive moment. For all the input of highly trained professional jurists, one would perhaps struggle to characterize it as a moment of rationalization;⁹⁸ it did, however, have an overall thrust, which was to turn unfreedom into a much more specialized tool, designed essentially to deal with the specific

⁹⁴ Berkhofer, 'Marriage, lordship and the "greater unfree"'; see also Gilchrist, 'The medieval canon law on unfree persons', pp. 288–93; Sheehan, 'Marriage of the unfree and the poor', pp. 474–7.

⁹⁵ Helmholz, 'The law of slavery and the European *ius commune*', pp. 29–30.

⁹⁶ Searle, 'Seigneurial control of women's marriage', with subsequent debate by Brand and Hyams, 'Seigneurial control of women's marriage, I', Faith, 'Seigneurial control of women's marriage, II', and Searle, 'A rejoinder'.

⁹⁷ Italy: Conte, *Servi medievali*; England: Hyams, *King, Lords and Peasants*; Burgundy: Carrier, *Les usages de la servitude*; Catalonia: Freedman, *Origins of Peasant Servitude*; Freedman, 'Catalan lawyers'. More generally, see also Helmholz, 'The law of slavery and the European *ius commune*'; Carrier, *Nouveaux servages et sociétés en Europe*; Freedman and Bourin, *Forms of Servitude*.

⁹⁸ Even much later in middle ages and in early modern period, unfreedom was given a largely piecemeal and indirect definition; Helmholz, 'The law of slavery and the European *ius commune*', p. 38.

conditions and problems associated with unfree tenancy. This represented a notable narrowing compared to the full range of options that had been available, even if not all frequently resorted to, throughout the early middle ages.

This level of formal, legal specialization would have been impossible without the earlier *de facto* specialization in lords' concrete techniques of exploitation of unfree status throughout the early middle ages, and in particular from the Carolingian period onwards. The rules generated by lords were key to subsequent institutional developments: thirteenth-century jurists were not so much working in continuation with the priorities of early medieval statesmen and churchmen, but working back from lords' earlier varied sets of options and 'rules of thumb', and turning them into something more streamlined, formal, and technical, which by this point may be properly be understood as a new legal concept of 'serfdom'.

CONCLUSION

What allowed the creation of more precise forms of regulation of serfdom in law was not that practices of unfreedom had become any more significantly divergent from the Roman model in the twelfth century than they had been in the ninth. What allowed it to take place, rather, was increasing homogenization—one might say an impoverishment—in the range of purposes unfreedom was being used to fulfil. This homogenization was the result of a convergence in landlords' choices regarding how best to exploit unfree status, gearing it increasingly to the specific requirements of tenancy.

The main contrast between the twelfth century and the early middle ages, then, lies not in degrees of remove from ancient slavery, but in degrees of diversity in the uses of unfreedom. Social change that flies in all directions—as the uses of unfree status did in the early middle ages—does not lend itself well to the issuing of new general rules. In view of this, early medieval legislators may well have been following the most sensible course of action in 'failing' to register change: since lords' strategies in the use of unfree labour were so varied, the best legislators could do was to give them a gold standard starting point, and leave it up to them what they would actually try to do with it. At this general level, the reuse of standard Roman law principles in fact worked very well, since it offered general support to the claims of lords without hindering their range of choices. What early medieval kings were providing was a possible instrument of exploitation, without specifying how it might be used, or even within what basic parameters. Sometimes (as with household slavery, where physical proximity made direct coercion less of an organizational challenge) lords evidently made fuller use of their legal head start; but they were not always able or minded to act on the rights granted to them in law in any systematic way—something which would have required a great deal of investment and energy on *their* part, not the king's.

Early medieval laws about unfree status were the legislative equivalent of a Swiss army knife: they could do many different things without being ideally suited to

any of them, and it was only a rare and enthusiastic user that would find occasion to employ all of its possible functions. Lords were the ones who had to decide how far to try to make this generic, all-purpose instrument work on the ground—when to try to assert the full extent of their entitlement, when to back off or compromise, and which rights were and which were not worth denying to their unfree dependents in each case.

Conclusion

Early medieval people took a very creative, pragmatic approach to unfree status, and many of their experiments had relatively little to do with either the Roman era or the world of the twelfth century and beyond. Although many of the practices we looked at in the first three chapters, whether of enslavement or of manumission, had already existed in some version under Rome, many of the uses to which they were put seem new and distinct from those characteristic of Roman slavery: for instance, the use of enslavement to symbolize submission after a dispute over terms of tenancy, or as interest on a loan; or manumission as a way of creating relationships with third parties. Even the slave trade shows profound discontinuity from the Roman era, both chronologically (with the height of the trade coming not in the fifth, but in the tenth century) and geographically (because it was most significant in those areas that had the least to do with the Roman legacy). At the other end of the chronological scale for chattel slavery, it also took a very long time for the distinction between those who were legitimately enslaveable and those who were not to become settled roughly along religious lines in Southern Europe; the shift was not complete before the twelfth century. All of this suggests new opportunities rather than a continuing tradition.

This proliferation in meanings also makes the category of 'unfree' look very conceptually incoherent. This is not simply a matter of diversity in resulting living conditions: extreme variation in slaves' actual conditions of life is an absolutely normal and unremarkable feature of most slave societies. Indeed, since the Roman economy was overall far more complex than the early medieval economy, the jobs and stations that slaves could fulfill under the Roman Empire had in fact been far more diverse than they were in the early middle ages, when many of these roles became more or less irrelevant fairly quickly after the fall of the Empire—such as slaves' or freedmen's roles as business intermediaries, shopkeepers, or trusted secretaries, or even as absurdly specialized 'luxury' domestic servants. These roles only survived in places where a distinctively urban elite lifestyle continued to exist, as in Constantinople.¹ What had lent coherence to Roman slavery, underneath this diversity in occupations and living conditions, was that slaves did all in principle live under a single and coherent *juridical* regime, and shared the same sets of rights and duties.

What seems distinctly unusual about the early medieval situation, by contrast, is not so much the diversity of experience of life and concrete treatment of unfree

¹ Rotman, *Les esclaves et l'esclavage*, pp. 141–56.

people, but rather the diversity in their expected rights and duties. For most of the people we have looked at, existing conditions of life and levels of agency seem to have determined what rights and duties unfree status would entail, not the other way around: this much is clear from the enormous gap between, for instance, the girl enslaved for theft in the poem by Fortunatus on the one hand, and, on the other, some of the women who made a gift of themselves to St Peter's in Ghent, who gave themselves the option of pulling out of the arrangement if it no longer suited them.² This flexibility allowed unfree status to be deployed in a wider variety of situations, and to be used to negotiate and renegotiate all kinds of relationships for which no one would have thought of using it under the Roman Empire. While the jobs unfree people did were probably less diverse than they had been under Rome, then, the real diversity in the early middle ages lay more in the different social relationships and mutual obligations between owner and dependant that unfree service could be used to represent.

What allowed so much experimentation and diversity was the combination, in the wake of the fall of the Empire, of profound economic change, together with, in the absence of either a Roman state or (outside Ireland and Wales) a professional body of legal practitioners, an increasing lack of reference to any of the homogenizing forces that had hitherto governed the use of existing legal categories. Lords and dependants in the early middle ages deployed, claimed, and exploited free and unfree status ad hoc, to achieve a huge range of different and locally variable purposes, without looking to a wider frame of reference. This gave them a great deal of leeway to hammer out between them exactly what either would mean in the particular case at hand, depending on what was most at stake. This is why it is more or less impossible to find a working, unified definition or translation for *servus* and *mancipium* as either 'slave' or 'serf': the whole spectrum of possible meanings could apply at the same time within the same early medieval society—and indeed within a single lordship, depending on what lord and dependants had been trying to achieve with these labels. All this flexibility was ultimately achieved by harnessing a legal tradition and vocabulary which no central authority could really be said to control. The proliferation in forms and meanings within what was putatively still a single legal status was enabled by a situation in which law and legal instruments were still highly meaningful, and capable of functioning as important tools of domination, but without being subjected to any unifying pressure. When early medieval lords and their unfree dependants argued or otherwise made arrangements about unfreedom, they did engage in what one might call legalistic behaviour. The meaning of the legal instruments they used, however, was determined not at the top, by jurists or legislators, but at the end-user level.

The epoch-making events generally privileged in the historiography, such as Duby's eleventh century feudal mutation or Maitland's manumissions in the wake of the Norman conquest, certainly also corresponded to moments of change for unfreedom as well, but it was a kind of change that was being made and unmade all the time anyway, throughout the period, highly chaotically and on a very local

² See Chapter 2, pp. 45–6, 55.

basis. Who exactly was included under an unfree label had to be worked out again and again, on a near-generational basis; and what unfree status would mean once established in any given case was equally up for grabs.

I argued in the introduction to this book that the granting of conditional access to rights as a tool of domination is a hallmark of serfdom, as opposed to slavery, which denies them altogether. The very greatest private lordships of the Carolingian era stood at the forefront of this new kind of strategy, resulting in a kind of unfree tenancy that looks like the serfdom of the twelfth century in almost every respect except in its level of systematization. In the early middle ages, however, this type of use for unfreedom still cannot really be considered to have been mainstream: the Carolingian Empire, much like the rest of early medieval Europe, was still characterized by a deep heterogeneity in the uses of unfree status, at different social levels, including at the very highest. As we saw in the case of our unfree female textile workers on Frankish great estates, a 'harsher' definition of unfreedom, denying access to most rights, such as marriage or economic independence, could apply to certain members of a family, for a more or less long stretch of their life-cycle, but not to others. Whether unfreedom would lead to a life closer to the 'slave-like' or the 'serf-like' ends of the spectrum largely depended on factors beyond legal status, such as the social position of a particular individual within their kin group and their local community. In most regions of Europe during the early middle ages, most possible readings of an unfree status were still on the table.

The early middle ages were the Burgess Shale of the history of unfreedom in Europe: an explosion of different and inventive experiments, followed by severe subsequent selection. Rather than following an inexorable, wholesale replacement of slavery by serfdom (however slow or abrupt), unfree status during the early middle ages split into all kinds of separate trajectories. There is a fundamental problem with looking for a single linear story here: the line is far too broken up, too frayed with little individual threads making their own bids for escape, and often leading nowhere. Unfree status gathered all sorts of emergent properties onto itself during this period, and was used to do all kinds of things: it could establish a new relationship, or redefine an old one; it could be about work, or about symbols; it could go, with extreme suddenness, from not mattering very much at all to mattering a great deal; it was sometimes the key point in a negotiation, sometimes merely instrumentalized as a medium to wrangle about other things. In Northern European regions, the overall direction of change was for unfree status to become ever less relevant to the definition of household power relations, and ever more exploited as a specialized tool to negotiate labour and land relations between landlords and tenants. It was only an eventual homogenization in the preferences of lords towards this form of exploitation of unfree status that allowed the formation of serfdom, first as a more stable socio-economic class (with, for instance, much less possibility of movement across to household slavery according to the vagaries of individual life circumstances); and later, in the twelfth century, as a new kind of juridical concept, with the specialization of legal status to deal with tenancy.

Central medieval serfdom, then, only came about as a result of strong continuity along one particular path, coupled with a phasing out of other possibilities.

We can only see this, however, if we look not just for those emergent properties that foreshadow most clearly the shape of things to come, but also at those which, looking back with hindsight across a period of significant narrowing in functions and possibilities, now seem more like bizarre dead ends. Even the most outlandish of these, as I hope to have shown, still formed a crucial part of the story. The serfdom of the twelfth century was not simply the final outcome of a transition aimed in a single direction, with the only relevant questions being ‘when did it happen?’ and ‘how long did it take?’; it was, rather, a moment of paring down and tidying up after a hugely creative burst which exploded the meanings, uses, and consequences of legal status.

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